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COMMITTEE ON FOREIGN RELATIONS
COMMITTEE ON FOREIGN AFFAIRS

Legislation on Foreign Relations Through 1988

FEBRUARY 1989

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FOREWORD

This volume of legislation and related material is part of a five volume set of laws and related material frequently referred to by the Committees on Foreign Relations of the Senate and Foreign Affairs of the House of Representatives, amended to date and annotated to show pertinent history or cross references.

Volumes I, II, III and IV contain legislation and related material and are republished with amendments and additions at the end of each annual session of Congress. Volume V which contains treaties and related material will not be revised every year, but only as necessary.

We wish to express our appreciation to Dianne E. Rennack of the Foreign Affairs and National Defense Division of the Congressional Research Service of the Library of Congress who prepared volume I of this year's compilation.

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations.
DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs.

EXPLANATORY NOTE

All public laws included in this volume, except as noted below, are codified and in force through the end of the 100th Congress. The texts of the public laws in this volume are printed as they appear in the United States Statutes at Large rather than the United States Code. Amendments are incorporated into the text and distinguished by a footnote.

All Executive orders and State Department delegations of authority are codified and in force as of January 31, 1989.

ABBREVIATIONS

Bevans	Treaties and Other International Agreements of the United States of America, 1776–1949, compiled under the direction of Charles I. Bevans.
CFR	Code of Federal Regulations.
EAS	Executive Agreement Series.
F.R	Federal Register.
LNTS	League of Nations Treaty Series.
I Malloy, II Malloy	Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers, 1776–1909, compiled under the direction of the United States Senate by William M. Malloy.
Stat	United States Statutes at Large.
TIAS	Treaties and Other International Acts Series.
TS	Treaty Series.
UNTS	United Nations Treaty Series.
U.S.C	United States Code.
UST	United States Treaties and Other International Agreements.

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*NOTE.—The Foreign Assistance Act will be referred to as the FA Act and "this Act."

sistance Authorization, H.R. 4995], 93 Stat. 843, approved November 13, 1979; Public Law 96-257 [Special Central American Assistance Act of 1979], 94 Stat. 422, approved May 31, 1980; Public Law 96-327 [S. 1916], 94 Stat. 1026, approved August 8, 1980; Public Law 96-450 [Intelligence Authorization Act for Fiscal Year 1981, S. 2597], 94 Stat. 1975 at 1981, approved October 14, 1980; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2158; Public Law 96-525 [H.R. 8388], 94 Stat. 3043, approved December 12, 1980; Public Law 96-533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131, approved December 16, 1980; Public Law 97-65 [OPIC Amendments Act of 1981, H.R. 3136], 95 Stat. 1021, approved October 16, 1981; Public Law 97-113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519, approved December 29, 1981; Public Law 97-164 [Federal Courts Improvement Act, H.R. 4482], 96 Stat. 25 at 48, approved April 2, 1982; Public Law 97-208 [Humanitarian Assistance for the People of Lebanon, H.R. 6631], 96 Stat. 138, approved June 30, 1982; Public Law 97-377 [Further Continuing Appropriations Act, 1983; H.J. Res. 631], 96 Stat. 1830 at 1831, approved December 21, 1982; Public Law 97-438 [H.R. 7143], 96 Stat. 2286, approved January 8, 1983; Public Law 98-151 [Further Continuing Appropriations, 1984; H.J. Res. 413], 97 Stat. 964, approved November 14, 1983; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 98-473 [Continuing Appropriations, 1985; H.J. Res. 648], 98 Stat. 1837 at 1884, approved October 12, 1984; Public Law 99-8 [African Famine Relief and Recovery Act of 1985, S. 689], 99 Stat. 21, approved April 2, 1985; Public Law 99-64 [Export Administration Amendments Act of 1985, S. 883], 99 Stat. 156, approved July 12, 1985, Public Law 99-83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190, approved August 8, 1985; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405 at 442, approved August 16, 1985; Public Law 99-204 [Overseas Private Investment Corporation Amendments Act of 1985, S. 947], 99 Stat. 1669 approved December 23, 1985; Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 99-440 [Comprehensive Anti-Apartheid Act of 1986, H.R. 4868], 100 Stat. 1086, approved October 2, 1986; Public Law 99-529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986; Public Law 99-570 [Anti-Drug Abuse Act of 1980, H.R. 5484], 100 Stat. 3207, approved October 27, 1986; Public Law 99-661 [National Defense Authorization Act for Fiscal Year 1987, S. 2368], 100 Stat. 3816, approved November 14, 1986; Public Law 100-202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100-418 [Omnibus Trade and Competitiveness Act of 1988; H.R. 4848], 102 Stat. 1107, approved August 23, 1988; Public Law 100-461 [Foreign Operations, Export Financing and Related Programs Appropriations Act, Fiscal Year 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; H.R. 5263 [Overseas Private Investment Corporation Amendments Act of 1988, title I; enacted by reference in Public Law 100-461], approved October 1, 1988; S. 2757 [Miscellaneous International Affairs Authorizations Act of 1988, titles I and III; enacted by reference in Public Law 100-461], approved October 1, 1988; and by Public Law 100-690 [International Narcotics Control Act of 1988; H.R. 5210], 102 Stat. 4181, approved November 18, 1988

AN ACT To promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development and internal and external security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Foreign Assistance Act of 1961." [1]

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[1] The short title was added by sec. 111 of the FA Appropriation Act, 1962.

PART I

Chapter 1—Policy; Development Assistance Authorizations [2]

Sec. 101.[3] General Policy.—(a) The Congress finds that fundamental political, economic, and technological changes have resulted in the interdependence of nations. The Congress declares that the individual liberties, economic prosperity, and security of the people of the United States are best sustained and enhanced in a community of nations which respect individual civil and economic rights and freedoms and which work together to use wisely the world's limited resources in an open and equitable international economic system. Furthermore, the Congress reaffirms the traditional humanitarian ideals of the American people and renews its commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance.

Therefore, the Congress declares that a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives.

United States development cooperation policy should emphasize four principal goals:

(1) the alleviation of the worst physical manifestations of poverty among the world's poor majority;

(2) the promotion of conditions enabling developing countries to achieve self-sustaining economic growth with equitable distribution of benefits;

(3) the encouragement of development processes in which individual civil and economic rights are respected and enhanced; and

(4) the integration of the developing countries into an open and equitable international economic system.

The Congress declares that pursuit of these goals requires that development concerns be fully reflected in United States foreign policy and that United States development resources be effectively and efficiently utilized.

(b) Under the policy guidance of the Secretary of State, the agency primarily responsible for administering this part should have the responsibility for coordinating all United States development-related activities.[4]

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[2] Sec. 101(a) of the FA Act of 1963 struck out the words "SHORT TITLE AND" in the chapter heading, which formerly read "SHORT TITLE AND POLICY". Sec. 2(1) of the FA Act of 1973 added the following words to the chapter heading: "DEVELOPMENT ASSISTANCE AUTHORIZATIONS".

[3] 22 U.S.C. 2151. Sec. 101 was added by sec. 101 of the International Development and Food Assistance Act of 1978 (92 Stat. 937). Previously, sec. 101 had related to the short title before being repealed by the FA Act of 1963. This general policy statement was formerly contained in sec. 102 before 1978.

[4] The responsibilities of the Agency mentioned in this subsection were transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA). The responsibilities of the Secretary of State, insofar as they relate to policy guidance other than foreign policy guidance, were also transferred to the Director.

Sec. 102.[5] **Development Assistance Policy.**—(a) The Congress finds that the efforts of developing countries to build and maintain the social and economic institutions necessary to achieve self-sustaining growth and to provide opportunities to improve the quality of life for their people depend primarily upon successfully marshalling their own economic and human resources. The Congress recognizes that the magnitude of these efforts exceeds the resources of developing countries and therefore accepts that there will be a long-term need for wealthy countries to contribute additional resources for development purposes. The United States should take the lead in concert with other nations to mobilize such resources from public and private sources.

Provision of development resources must be adapted to the needs and capabilities of specific developing countries. United States assistance to countries with low per capita incomes which have limited access to private external resources should primarily be provided on concessional terms. Assistance to other developing countries should generally consist of programs which facilitate their access to private capital markets, investment, and technical skills, whether directly through guarantee or reimbursable programs by the United States Government or indirectly through callable capital provided to the international financial institutions.

Bilateral assistance and United States participation in multilateral institutions shall emphasize programs in support of countries which pursue development strategies designed to meet basic human needs and achieve self-sustaining growth with equity.

The Congress declares that the principal purpose of United States bilateral development assistance is to help the poor majority of people in developing countries to participate in a process of equitable growth through productive work and to influence decisions that shape their lives, with the goal of increasing their incomes and their access to public services which will enable them to satisfy their basic needs and lead lives of decency, dignity, and hope. Activities shall be emphasized that effectively involve the poor in development by expanding their access to the economy through services and institutions at the local level, increasing their participation in the making of decisions that affect their lives, increasing labor-intensive production and the use of appropriate technology, expanding productive investment and services out from major cities to small towns and rural areas, and otherwise providing opportunities for the poor to improve their lives through their own efforts. Participation of the United States in multilateral institutions shall also place appropriate emphasis on these principles.

(b) Assistance under this chapter should be used not only for the purpose of transferring financial resources to developing countries, but also to help countries solve development problems in accordance with a strategy that aims to insure wide participation of the poor in the benefits of development on a sustained basis. Moreover, assistance shall be provided in a prompt and effective manner, using appropriate United States institutions for carrying out this strategy. In order to achieve these objectives and the broad objectives set forth in section 101 and in subsection (a) of this section, bilateral development assistance authorized by this Act shall be carried out in accordance with the following principles:

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[5] 22 U.S.C. 2151-1. Sec. 101 of the International Development and Food Assistance Act of 1978 (92 Stat. 927) struck out sec. 102, which concerned a statement of policy, and added a new sec. 102.

(1) Development is primarily the responsibility of the people of the developing countries themselves. Assistance from the United States shall be used in support of, rather than substitution for, the self-help efforts that are essential to successful development programs and shall be concentrated in those countries that take positive steps to help themselves. Maximum effort shall be made, in the administration of this part, to stimulate the involvement of the people in the development process through the encouragement of democratic participation in private and local governmental activities and institution building appropriate to the requirements of the recipient countries.

(2) Development planning must be the responsibility of each sovereign country. United States assistance should be administered in a collaborative style to support the development goals chosen by each country receiving assistance.

(3) United States bilateral development assistance should give high priority to undertakings submitted by host governments which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries, while also helping such governments enhance their planning, technical, and administrative capabilities needed to insure the success of such undertakings.

(4) Development assistance provided under this chapter shall be concentrated in countries which will make the most effective use of such assistance to help satisfy basic human needs of poor people through equitable growth, especially in those countries having the greatest need for outside assistance. In order to make possible consistent and informed judgments in this respect, the President shall assess the commitment and progress of countries in moving toward the objectives and purposes of this chapter by utilizing criteria, including but not limited to the following:

(A) increase in agricultural productivity per unit of land through small- farm, labor-intensive agriculture;

(B) reduction of infant mortality;

(C) control of population growth;

(D) promotion of greater equality of income distribution, including measures such as more progressive taxation and more equitable returns to small farmers;

(E) reduction of rates of unemployment and underemployment; and

(F) increase in literacy.

(5) United States development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of the people in the developing countries; food production and nutrition; rural development and generation of gainful employment; population planning and health; environment and natural resources; education, development

administration, and human resources development; and energy development and production.[6]

(6) United States assistance shall encourage and promote the participation of women in the national economies of developing countries and the improvement of women's status as an important means of promoting the total development effort.

(7) United States bilateral assistance shall recognize that the prosperity of developing countries and effective development efforts require the adoption of an overall strategy that promotes the development, production,[6] and efficient utilization of energy and, therefore, consideration shall be given to the full implications of such assistance on the price, availability, and consumption of energy in recipient countries.

(8) United States cooperation in development should be carried out to the maximum extent possible through the private sector, including those institutions which already have ties in the developing areas, such as educational institutions, cooperatives, credit unions, free labor unions, and private and voluntary agencies.

(9) To the maximum extent practicable, United States private investment should be encouraged in economic and social development programs to which the United States lends support.

(10) Assistance shall be planned and utilized to encourage regional cooperation by developing countries in the solution of common problems and the development of shared resources.

(11) Assistance efforts of the United States shall be planned and furnished to the maximum extent practicable in coordination and cooperation with assistance efforts of other countries, including the planning and implementation of programs and projects on a multilateral and multidonor basis.

(12) United States bilateral development assistance should be concentrated on projects which do not involve large-scale capital transfers. However, to the extent that such assistance does involve large-scale capital transfers, it should be furnished in association with contributions from other countries working together in a multilateral framework.

(13)[7] United States encouragement of policy reforms is necessary if developing countries are to achieve economic growth with equity.

(14)[7] Development assistance should, as a fundamental objective, promote private sector activity in open and competitive markets in developing countries, recognizing such activity to be a productive and efficient means of achieving equitable and long-term economic growth.

(15)[7] United States cooperation in development should recognize as essential the need of developing countries to have access to appropriate technology in order to improve food and

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[6] The reference to energy development and production was added by sec. 104(a) of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 360).

[7] Paragraphs (13), (14), (15), and (16) were added by sec. 301 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 190).

water, health and housing, education and employment, and agriculture and industry.

(16)[7] United States assistance should focus on establishing and upgrading the institutional capacities of developing countries in order to promote long- term development. An important component of institution building involves training to expand the human resource potential of people in developing countries.

(c) The Congress, recognizing the desirability of overcoming the worst aspects of absolute poverty by the end of this century by, among other measures, substantially lowering infant mortality and birth rates, and increasing life expectancy, food production, literacy, and employment, encourages the President to explore with other countries, through all appropriate channels, the feasibility of a worldwide cooperative effort to overcome the worst aspects of absolute poverty and to assure self-reliant growth in the developing countries by the year 2000.

NOTE.—Foreign assistance appropriations for fiscal year 1989 are included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268). Amounts appropriated by that Act to carry out the purposes of provisions contained in the FA Act, 1961, during fiscal year 1989 are included in footnote references. For complete text of the foreign assistance provisions of Public Law 100–461, see page 514.

NOTE.—The Foreign Operations, Export Financing and Related Programs Appropriations Act, 1989, (Public Law 100–461, 102 Stat. 2268) provided the following:

"SEC. 502. Except for the appropriations entitled 'International Disaster Assistance', and 'United States Emergency Refugee and Migration Assistance Fund', not more than 15 per centum of any appropriation item made available by this Act for the current fiscal year shall be obligated during the last month of availability."

Note.—Prior Approval of Congress. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, as amended (Public Law 100-461, 102 Stat. 2268), provided the following:

"Sec. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated."

Note.—Deobligation/Reobligation Authority. The Foreign Operations, Export Financing and Related Programs Appropriations Act, 1989, (Public Law 100-461, 102 Stat. 2268) provided the following:

"Sec. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the 'Agency for International Development' are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1989, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds: *Provided further*, That the authority of this section may be used to continue the availability of any of the funds deobligated under any of such headings in order to provide relief, rehabilitation, and reconstruction assistance for Jamaica and Bangladesh: *Provided further*, That any such funds reobligated for Jamaica and Bangladesh shall be made available in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961: *Provided further*, That the authority of this section may not be exercised to deobligate and reobligate funds previously obligated for the 'Economic Support Fund'."

NOTE.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) provided the following:

"SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act."

Note.—Prior Notification to Congress. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) provided the following:

"Sec. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for 'Agriculture, rural development, and nutrition, Development Assistance', 'Population, Development Assistance', 'Child Survival Fund', 'Health, Development Assistance', 'International AIDS Prevention and Control Program', 'Education and human resources development, Development Assistance', 'Private Sector, environment, and energy, Development Assistance', 'Science and technology, Development Assistance', 'Sub-Saharan Africa, Development Assistance', 'Southern Africa, Development Assistance', 'International organizations and programs', 'American schools and hospitals abroad', 'Trade and development program', 'International narcotics control', 'Economic support fund', 'Peacekeeping operations', 'Operating expenses of the Agency for International Development', 'Operating expenses of the Agency for International Development Office of Inspector General', 'Anti-terrorism assistance', 'Military Assistance', 'Foreign Military Credit Sales', 'International military education and training', 'Inter-American Foundation', 'African Development Foundation', 'Peace Corps', or 'Migration and refugee assistance', shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961 or of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year."

Sec. 103.[8] Agriculture, Rural Development, and Nutrition.—(a)(1) In recognition of the fact that the great majority of the people of developing countries live in rural areas and are dependent on agriculture and agricultural-related pursuits for their livelihood, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for agriculture, rural development, and nutrition—

(A) to alleviate starvation, hunger, and malnutrition;

(B) to expand significantly the provision of basic services to rural poor people to enhance their capacity for self-help; and

(C) to help create productive farm and off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural poor people to the economic and social development of their countries.

(2) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $760,000,000 for the fiscal year 1986[9] and $760,000,000 for the fiscal year 1987. Of these amounts, the President may use such amounts as he deems appropriate to carry out the provisions of section 316 of the International Security and Development Cooperation Act of 1980.[10]

(3)[11] Of the amounts authorized to be appropriated in paragraph; (2) for the fiscal year 1987, not less than $2,000,000 shall be available only for the purpose of controlling and eradicating amblyomman variegatum (heartwater) in bovine animals in the Caribbean.

(b)(1) Assistance provided under this section shall be used primarily for activities which are specifically designed to increase the productivity and income of the rural poor, through such means as creation and strengthening of local institutions linked to the regional and national levels; organization of a system of financial institutions which provide both savings and credit services to the poor; stimulation of small, labor-intensive enterprises in rural towns; improvement of marketing facilities and systems; expansion of rural infrastructure and utilities such as farm-to-market roads, water management systems, land improvement, energy, and storage facilities; establishment of more equitable and more secure land tenure arrangements; and creation and strengthening of systems to provide other services and supplies needed by farmers, such as extension, research, training, fertilizer, water, forestry, soil conservation, and improved seed, in ways which assure access to them by small farmers.

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[8] 22 U.S.C. 2151a. Sec. 103, as added by sec. 2(3) of the FA Act of 1973 (87 Stat. 715), was amended and restated by sec. 103(a) of the International Development and Food Assistance Act of 1978 (92 Stat. 943). Previous amendments to sec. 103 were made by sec. 2 of Public Law 93-559 (88 Stat. 1795), sec. 302 of Public Law 94-161 (89 Stat. 856), and by sec. 102 of Public Law 95-88 (91 Stat. 534).

[9] The authorization figures for fiscal years 1986 and 1987 were added by sec. 302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83: 99 Stat. 190). Authorizations for recent years included: fiscal year 1975—$500,000,000; fiscal year 1976—$618,000,000; fiscal year 1977—$745,000,000; fiscal year 1978—$580,000,000; fiscal year 1979—$665,231,000; fiscal year 1980—$659,000,000; fiscal year 1981—$713,500,000. fiscal year 1982—$700,000,000; fiscal year 1983—$700,000,000; fiscal year 1984—$725,213,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "Agriculture, Rural Development, and Nutrition, Development Assistance":

"For necessary expenses to carry out the provisions of section 103, $493,715,000: *Provided*, That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further*, That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further*, That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this heading shall be made available, and remain available until expended, for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations.

The amount for "Agriculture, Rural Development, and Nutrition, Development Assistance" for fiscal year 1989 does not include funds appropriated separately for sub-Saharan Africa.

[10] Sec. 316 of the International Security and Development Cooperation Act of 1980 concerns world hunger and instructs the Director of IDCA to encourage the ongoing work of PVOs to deal with world hunger problems abroad. See page 424 for complete text of sec. 316.

[11] Paragraph 3 was added by sec. 1304 of Public Law 99-399, 100 Stat. 898.

(2) In circumstances where development of major infrastructure is necessary to achieve the objectives set forth in this section, assistance for that purpose should be furnished under this chapter in association with significant contributions from other countries working together in a multilateral framework. Infrastructure projects so assisted should be complemented by other measures to ensure that the benefits of the infrastructure reach the poor.

(3) [12] The Congress recognizes that the accelerating loss of forests and tree cover in developing countries undermines and offsets efforts to improve agricultural production and nutrition and otherwise to meet the basic human needs of the poor. Deforestation results in increased flooding, reduction in water supply for agricultural capacity, loss of firewood and needed wood products, and loss of valuable plants and animals. In order to maintain and increase forest resources, the President is authorized to provide assistance under this section for forestry projects which are essential to fulfill the fundamental purposes of this section. Emphasis shall be given to community woodlots, agroforestry, reforestation, protection of watershed forests, and more effective forest management.

(c) The Congress finds that the greatest potential for significantly expanding availability of food for people in rural areas and augmenting world food production at relatively low cost lies in increasing the productivity of small farmers who constitute a majority of the agricultural producers in developing countries. Increasing the emphasis on rural development and expanded food production in the poorest nations of the developing world is a matter of social justice and a principal element contributing to broadly based economic growth, as well as an important factor in alleviating inflation in the industrialized countries. In the allocation of funds under this section, special attention shall be given to increasing agricultural production in countries which have been designated as "least developed" by the United Nations General Assembly.

(d) Assistance provided under this section shall also be used in coordination with programs carried out under section 104 to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of indigenously produced foodstuffs; and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people. In particular, the President is encouraged—

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[12] Par. (3) and subsec. (f) were added by sec. 101 of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 359).

(1) to devise and carry out in partnership with developing countries a strategy for programs of nutrition and health improvement for mothers and children, including breast feeding; and

(2) to provide technical, financial, and material support to individuals or groups at the local level for such programs.

(e) Local currency proceeds from sales of commodities provided under the Agricultural Trade Development and Assistance Act of 1954 which are owned by foreign governments shall be used whenever practicable to carry out the provisions of this section.

(f) [12] The Congress finds that the efforts of developing countries to enhance their national food security deserves encouragement as a matter of United States development assistance policy. Measures complementary to assistance for expanding food production in developing countries are needed to help assure that food becomes increasingly available on a regular basis to the poor in such countries. Therefore, United States bilateral assistance under this Act and the Agricultural Trade Development and Assistance Act of 1954, and United States participation in multilateral institutions, shall emphasize policies and programs which assist developing countries to increase their national food security by improving their food policies and management and by strengthening national food reserves, with particular concern for the needs of the poor, through measures encouraging domestic production, building national food reserves, expanding available storage facilities, reducing postharvest food losses, and improving food distribution.

(g) [13] (1) In order to carry out the purposes of this section, the President may continue United States participation in and may make contributions to the International Fund for Agricultural Development.

(2) Of the aggregate amount authorized to be appropriated to carry out part I of this Act, up to $50,000,000 for fiscal year 1986 and up to $50,000,000 for fiscal year 1987 [14] may be made available, by appropriation or by transfer, for United States contributions to the second replenishment of the International Fund for Agricultural Development.

Sec. 103A.[15] **Agricultural Research.**—Agricultural research carried out under this Act shall (1) take account of the special needs of small farmers in the determination of research priorities, (2) include research on the interrelationships among technology, institutions, and economic, social, environmental,[16] and cultural factors affecting small-farm agriculture, and (3) make extensive use of field testing to adapt basic research to local conditions. Special emphasis shall be placed on disseminating research results to the farms on which they can be put to use, and especially on institutional and other arrangements needed to assure that small farmers have effective access to both new and existing improved technology.

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[13] Sec. 1001 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 190) amended and restated subsec. (g). Subsec. (g), in its previous form, had been added by sec. 301(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1532). It previously read as follows: "In order to carry out the purposes of this section, the President may continue to participate in and may provide, on such terms and conditions as he may determine, up to $180,000,000 to the International Fund for Agricultural Development. There are authorized to be appropriated to the President for the purposes of this subsection $180,000,000, except that not more than $40,500,000 may be appropriated under this subsection for the fiscal year 1982. Amounts appropriated under this subsection are authorized to remain available until expended."

[14] Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) waived the requirement for authorizations and appropriated $2,500,000 for the International Fund for Agricultural Development.

[15] 22 U.S.C. 2151a–1. Sec. 103A was added by sec. 303 of Public Law 94–161 (89 Stat. 849).

Sec. 104.[17] **Population and Health.**—(a) FINDINGS.—The Congress recognizes that poor health conditions and uncontrolled population growth can vitiate otherwise successful development efforts.

Large families in developing countries are the result of complex social and economic factors which change relatively slowly among the poor majority least affected by economic progress, as well as the result of a lack of effective birth control. Therefore, effective family planning depends upon economic and social change as well as the delivery of services and is often a matter of political and religious sensitivity. While every country has the right to determine its own policies with respect to population growth, voluntary population planning programs can make a substantial contribution to economic development, higher living standards, and improved health and nutrition.

Good health conditions are a principal element in improved quality of life and contribute to the individual's capacity to participate in the development process, while poor health and debilitating disease can limit productivity.

(b) ASSISTANCE FOR POPULATION PLANNING.—In order to increase the opportunities and motivation for family planning and to reduce the rate of population growth, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for voluntary population planning. In addition to the provision of family planning information and services, including also information and services which relate to and support natural family planning methods,[18] and the conduct of directly relevant demographic research, population planning programs shall emphasize motivation for small families.

(c) ASSISTANCE FOR HEALTH AND DISEASE PREVENTION.—(1) [19] In order to contribute to improvements in the health of the greatest number of poor people in developing countries, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for health programs. Assistance under this subsection shall be used primarily for basic integrated health services, safe water and sanitation, disease prevention and control, and related health planning and research. The assistance shall emphasize self-sustaining community-based health programs by means such as training of health auxiliary and other appropriate personnel, support for the establishment and evaluation of projects that can be replicated on a broader scale, measures to improve management of health programs, and other services and suppliers to support health and disease prevention programs.

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[16] The word "environmental," was added by sec. 103(d) of the International Development and Food Assistance Act of 1978 (92 Stat. 945).

[17] 22 U.S.C. 2151b. Sec. 104, as added by sec. 2(3) of the FA Act of 1973 (87 Stat. 715), was amended and restated by sec. 104(a) of the International Development and Food Assistance Act of 1978 (92 Stat. 945). Previous amendments to sec. 104 were made by sec. 4(1) of Public Law 93-559 (88 Stat. 1795), sec. 304 of Public Law 94-161 (89 Stat. 857), and sec. 103 of Public Law 95-88 (91 Stat. 534).

[18] The words ", including also information and services which related to and support natural family planning methods," were added by sec. 302(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3145).

[19] The paragraph designation "(1)" and a new par. (2) were added by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98-473). This amendment had been included as sec. 303 of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 303 of H.R. 5119.

(2) [19] (A) In carrying out the purposes of this subsection, the President shall promote, encourage, and undertake activities designed to deal directly with the special health needs of children and mothers. Such activities should utilize simple, available technologies which can significantly reduce childhood mortality, such as improved and expanded immunization programs, oral rehydration to combat diarrhoeal diseases, and education programs aimed at improving nutrition and sanitation and at promoting child spacing. In carrying out this paragraph, guidance shall be sought from knowledgeable health professionals from outside the agency primarily responsible for administering this part. In addition to government-to-government programs, activities pursuant to this paragraph should include support for appropriate activities of the types described in this paragraph which are carried out by international organizations (which may include international organizations receiving funds under chapter 3 of this part) and by private and voluntary organizations, and should include encouragement to other donors to support such types of activities.

(B) [20] In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President $25,000,000 for fiscal year 1986 and $75,000,000 for fiscal year 1987 for use in carrying out this paragraph. Amounts appropriated under this subparagraph are authorized to remain available until expended.[21]

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[20] Sec. 304 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 190) replaced an authorization figure of "$25,000,000" with "$25,000,000 for fiscal year 1986 and $25,000,000 for fiscal year 1987". Section 103(b) of Public Law 99-529, 100 Stat. 3010, replaced the $25,000,000 authorization for fiscal year 1987 with an authorization of $75,000,000.

[21] Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for the "Child Survival Fund": "For necessary expenses to carry out the provisions of section 104(c)(2), $71,000,000."

Public Law 100-461 also provided the following provisions for immuniziations for children and child survival and AIDS activities:

"IMMUNIZATIONS FOR CHILDREN

"Sec. 541. (a) The Congress finds that—

"(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

"(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

"(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

"(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

Continued

(C) Appropriations pursuant to subparagraph (B) may be referred to as the "Child Survival Fund."

(3)[22] The Congress recognizes that the promotion of primary health care is a major objective of the foreign assistance program. The Congress further recognizes that simple, relatively low-cost means already exist to reduce incidence of communicable diseases among children, mothers, and infants. The promotion of vaccines for immunization, and salts for oral rehydration, therefore, is an essential feature of the health assistance program. To this end, the Congress expects the agency primarily responsible for administer-

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"(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

"(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

"(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

"(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

"(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

"(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

"(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

"(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

"(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

"(A) assisting in the delivery, distribution, and use of vaccines, including—

"(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

"(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

"(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

"(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990."

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"CHILD SURVIVAL AND AIDS ACTIVITIES

"Sec. 545. Of the funds made available by this Act and appropriated for the 'Child Survival Fund' and 'Health, Development Assistance', up to $6,000,000 may be used to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full cost of employees detailed or assigned, as the case may be, to the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided*, That personnel which are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment."

[22] Par. (3) was added by sec. 305 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 190). Sec. 305(b) of the act provides that: "Each annual report required by section 634 of the Foreign Assistance Act of 1961 shall describe the progress achieved during the preceding fiscal year in carrying out section 104(c)(3) of such Act." The last sentence of paragraph (3) was added by sec. 103(a) of Public Law 99-529, 100 Stat. 3010.

ing this part to set as a goal the protection of not less than 80 percent of all children, in those countries in which such agency has established development programs, from immunizable diseases by January 1, 1991. Of the aggregate amounts made available for fiscal year 1987 to carry out paragraph (2) of this subsection (relating to the Child Survival Fund) and to carry out subsection (c) (relating to development assistance for health), $50,000,000 shall be used to carry out this paragraph.

(d) INTEGRATION OF ASSISTANCE PROGRAMS.—(1) Assistance under this chapter shall be administered so as to give particular attention to the interrelationship between (A) population growth, and (B) development and overall improvement in living standards in developing countries, and to the impact of all programs, projects, and activities on population growth. All appropriate activities proposed for financing under this chapter shall be designed to build motivation for smaller families through modification of economic and social conditions supportive of the desire for large families, in programs such as education in and out of school, nutrition, disease control, maternal and child health services, improvements in the status and employment of women, agricultural production, rural development, and assistance to the urban poor, and through community-based development programs which give recognition to people motivated to limit the size of their families.[23] Population planning programs shall be coordinated with other programs aimed at reducing the infant mortality rate, providing better nutrition for pregnant women and infants, and raising the standard of living of the poor.

(2) Since the problems of malnutrition, disease, and rapid population growth are closely related, planning for assistance to be provided under subsections (b) and (c) of this section and under section 103 shall be coordinated to the maximum extent practicable.

(3) Assistance provided under this section shall emphasize low-cost integrated delivery systems for health, nutrition, and family planning for the poorest people, with particular attention to the needs of mothers and young children, using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach.

(e) RESEARCH AND ANALYSIS.—(1) Health and population research and analysis carried out under this Act shall—

(A) be undertaken to the maximum extent practicable in developing countries by developing country personnel, linked as appropriate with private and governmental biomedical research facilities within the United States;

(B) take account of the special needs of the poor people of developing countries in the determination of research priorities; and

(C) make extensive use of field testing to adapt basic research to local conditions.

(2) The President is authorized to study the complex factors affecting population growth in developing countries and to identify

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[23] The reference to community-based development programs was added by sec. 102(b) of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 360).

factors which might motivate people to plan family size or to space their children.

(f) PROHIBITION ON USE OF FUNDS FOR ABORTIONS AND INVOLUNTARY STERILIZATIONS.—(1) None of the funds made available to carry out this part may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

(2) None of the funds made available to carry out this part may be used to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations.

(3)[24] None of the funds made available to carry out this part may be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

(A) $290,000,000 for fiscal year 1986 and $290,000,000 for fiscal year 1987 to carry out subsection (b) of this section; and

(B) $205,000,000 for fiscal year 1986 and $180,000,000 for fiscal year 1987 to carry out subsection (c) of this section.

(2) Funds appropriated under this subsection are authorized to remain available until expended.[25]

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[24] Par. (3) was added by sec. 302(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1532).

The Supplemental Appropriations Act, 1985 (Public Law 99-88, 99 Stat. 293), amended Public Law 98-473 by adding at the end of the paragraph entitled "Population, Development Assistance":

"None of the funds made available in this bill nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization."

[25] The authorization figures for fiscal years 1986 and 1987 to carry out subsecs. (b) and (c) were added by sec. 303 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 99 Stat. 190). Subsequently, sec. 404 of Public Law 99-529 (100 Stat. 3341) replaced the $205,000,000 authorization for subsec. (c) with an authorization of $180,000,000. Authorizations under subsec. (b) in recent years include: fiscal year 1978—$167,000,000; fiscal year 1979—$224,745,000; fiscal year 1980—$201,000,000; fiscal year 1981—$238,000,000; fiscal year 1982—$211,000,000; fiscal year 1983—$211,000,000; fiscal year 1984—$244,600,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization. Authorizations under subsec. (c) in recent years include: fiscal year 1978—$107,700,000; fiscal year 1979—$148,494,000; fiscal year 1980—$141,000,000; fiscal year 1981—$145,300,000; fiscal year 1982—$133,405,000; fiscal year 1983—$133,405,000 (of the 1982 and 1983 subsec. (c) authorizations, not less than 16 percent or $38,000,000 whichever amount is less was made available for United Nations Fund for Population Activities); fiscal year 1984—$133,404,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "Population, Development Assistance":

"For necessary expenses to carry out the provisions of section 104(b), $197,940,000: *Provided*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious

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Sec. 105.[26] **Education and Human Resources Development.**—(a)[27] In order to reduce illiteracy, to extend basic education, and to increase manpower training in skills related to development, the President is authorized to furnish assistance on such terms and conditions as he may determine, for education, public administration, and human resource development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $180,000,000 for fiscal year 1986 and $180,000,000 for fiscal year 1987, which are authorized to remain available until expended.[28]

(b)(1)Assistance provided under this section shall be used primarily to expand and strengthen nonformal education methods, especially those designed to improve productive skills of rural families and the urban poor and to provide them with useful information; to increase the relevance of formal education systems to the needs

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commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act."

The amount for "Population, Development Assistance" for fiscal year 1989 does not include funds appropriated separately for sub-Saharan Africa.

The Foreign Operations, Export Financing and Related Programs Appropriations Act, 1989, also provided the following for "Health, Development Assistance":

"For necessary expenses to carry out the provisions of section 104(c), $122,459,000: *Provided*, That of this amount $2,500,000 shall be made available for the River Blindness Program of the World Health Organization."

The amount for "Health, Development Assistance" for fiscal year 1989 does not include funds appropriated separately for sub-Saharan Africa.

Additionally, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, provided as follows for the "International AIDS Prevention and Control Program":

"For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $40,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided*, That of the funds made available under this heading $25,500,000 shall be provided directly to the World Health Organization for its use in financing the Global Program on AIDS, including activities implemented by the Pan American Health Organization."

[26] 22 U.S.C. 2151c. Sec. 105 was added by sec. 2(3) of the FA Act of 1973.

[27] Sec. 305 of Public Law 94-161 (89 Stat. 849) added subsection designation "(a)" and new subsecs. (b) and (c).

[28] The authorization figures for fiscal years 1986 and 1987 were added by sec. 306 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 99 Stat. 190). Authorizations for recent years include fiscal year 1975—$92,000,000; fiscal year 1976—$89,200,000; fiscal year 1977—$101,800,000; fiscal year 1978—$84,900,000; fiscal year 1979—$126,244,000; fiscal year 1980—$105,000,000; fiscal year 1981—$101,000,000; fiscal year 1982—$103,600,000; fiscal year 1983—$103,600,000; fiscal year 1984—$121,477,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "Education and Human Resources Development, Development Assistance":

"For necessary expenses to carry out the provisions of section 105, $129,541,000: *Provided*, That $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: *Provided further*, That not less than $64,770,500 of the funds appropriated under this heading and under the heading 'Sub-Saharan Africa, Development Assistance' shall be available only for programs in basic primary and secondary education: *Provided further*, That in fiscal year 1989, the Agency for International Development shall initiate two new bilateral projects in basic primary and secondary education, at least one of which shall be initiated in countries in Sub-Saharan Africa: *Provided further*, That in each of fiscal years 1990 and 1991, such agency shall initiate three new bilateral projects in basic primary and secondary education, at least two of which in each fiscal year shall be initiated in Sub-Saharan Africa: *Provided further*, That not less than $15,000,000 of the funds appropriated under this heading shall be made available for the International Student Exchange Program: *Provided further*, That not less than $1,200,000 of the funds appropriated under this heading shall be made available for the Leadership Center for the Americas Program.

The figure of $129,541,000 for fiscal year 1989 does not include funds appropriated separately for development assistance to sub-Saharan Africa.

of the poor, especially at the primary level, through reform of curricula, teaching materials, and teaching methods, and improved teacher training; and to strengthen the management capabilities of institutions which enable the poor to participate in development. Assistance under this section shall also be provided for advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities.[29]

(2)[30] (A)(i) Of the amounts authorized to be appropriated to carry out this section for the fiscal years 1987, 1988, and 1989, not less than $4,000,000 shall be used in each such fiscal year to finance education, training, and scholarships for the victims of apartheid, including teachers and other educational professionals, who are attending universities and colleges in South Africa. Amounts available to carry out this subparagraph shall be provided in accordance with the provisions of section 802(c) of the International Security and Development Cooperation Act of 1985.

(ii) Funds made available for each such fiscal year for purposes of chapter 4 of part II of this Act may be used to finance such education, training, and scholarships in lieu of an equal amount made available under this subparagraph.

(B)(i) In addition to amounts used for purposes of subparagraph (A), the agency primarily responsible for administering this part, in collaboration with other appropriate departments or agencies of the United States, shall use assistance provided under this section or chapter 4 of part II of this Act to finance scholarships for students pursuing secondary school education in South Africa. The selection of scholarship recipients shall be by a nationwide panel or by regional panels appointed by the United States chief of diplomatic mission to South Africa.

(ii) Of the amounts authorized to be appropriated to carry out this section and chapter 4 of part II of this Act for the fiscal years 1987, 1988, and 1989, up to an aggregate of $1,000,000 may be used in each such fiscal year for purposes of this subparagraph.

(C)(i) In addition to the assistance authorized in subparagraph (A), the agency primarily responsible for administering this part shall provide assistance for in-service teacher training programs in South Africa through such nongovernmental organizations as TOPS or teachers' unions.

(ii) Of the amounts authorized to be appropriated to carry out this section and chapter 4 of part II of this Act, up to an aggregate of $500,000 for the fiscal year 1987 and up to an aggregate of $1,000,000 for the fiscal year 1988 may be used for purposes of this subparagraph, subject to standard procedures for project review and approval.

(c)[31] * * * [Repealed—1979]

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[29] This sentence was added by sec. 103(b) of the International Development Cooperation Act of 1979 (Public Law 96-53; 93 Stat. 360).

[30] 22 USC 2151c. Par. (2) was added by sec. 201 of Public Law 99-440 (100 Stat. 1094).

[31] Subsec. (c), which authorized funds during fiscal year 1977 and fiscal year 1978 for the southern African student program and the southern African training program, was repealed by sec. 122 of the International Development Cooperation Act of 1979 (Public Law 96-53; 93 Stat. 366).

Sec. 106.[32] **Energy, Private Voluntary Organizations, and Selected Development Activities.**—(a)(1)(A) [33] The Congress finds that energy development and production are vital elements in the development process, that energy shortages in developing countries severely limit the development process in such countries, that two-thirds of the developing countries which import oil depend on it for at least 90 percent of the energy which their economies require, and that the dramatic increase in world oil prices since 1973 has resulted in considerable economic hardship for many developing countries. The Congress is concerned that the value and purpose of much of the assistance provided to developing countries under sections 103, 104, and 105 are undermined by the inability of many developing countries to satisfy their energy requirements. Unless the energy deficit of the developing countries can be narrowed by more fully exploiting indigenous sources of energy such as oil, natural gas, and coal, scarce foreign exchange will increasingly have to be diverted to oil imports, primarily to the detriment of long-term development and economic growth.

(B) [33] The Congress recognizes that many developing countries lack access to the financial resources and technology necessary to locate, explore, and develop indigenous energy resources.

(C) [33] The Congress declares that there is potential for at least a moderate increase by 1990 in the production of energy for commercial use in the developing countries which are not members of the Organization of Petroleum Exporting Countries. In addition, there is a compelling need for vigorous efforts to improve the available data on the location, scale, and commercial exploitability of potential oil, natural gas, and coal reserves in developing countries, especially those which are not members of the Organization of Petroleum Exporting Countries. The Congress further declares that there are many benefits to be gained by the developing countries and by the United States and other developed countries through expanded efforts to expedite the location, exploration, and development of potential sources of energy in developing countries. These benefits include, but are not limited to, the following:

> (i) [33] The world's energy supply would be increased and the fear of abrupt depletion would be lessened with new energy production. This could have a positive impact upon energy prices in international markets as well as a positive effect upon the balance of payments problems of many developing countries.

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[32] 22 U.S.C. 2151d. Sec. 106, as added by Public Law 94–161 (89 Stat. 849), was amended by sec. 104 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 360) by redesignating subsecs. (a) and (b) as (c) and (d) and by adding new subsecs. (a) and (b). A prior version of sec. 106 (added in 1973 by Public Law 93–189) had also been repealed by Public Law 94–161. Before its repeal, sec. 106 had concerned "Selected Development Problems", authorizing the President to furnish assistance to help solve economic and social development problems in fields such as transportation, power, industry, urban development, and export development. Sec. 304(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3146) substituted the current section heading in lieu of "Technical Assistance, Energy, Research, Reconstruction, and Selected Development Activities".

[33] Sec. 304(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533; 94 Stat. 3146) redesignated pars. (1), (2), (3), and (4) of subsec. (a) as subpars. (A), (B), (C), and (D), respectively; redesignated subpars. (A), (B), and (C) of former par. (3) as clauses (i), (ii), and (iii), respectively; and added a new par. (2).

(ii) [33] Diversification of the world's supplies of energy from fossil fuels would make all countries, developing and developed, less susceptible to supply interruptions and arbitrary production and pricing policies.

(iii) [33] Even a moderate increase in energy production in the developing countries would improve their ability to expand commercial trade, foreign investment, and technology transfer possibilities with the United States and other developed countries.

(D) [33] Assistance for the production of energy from indigenous resources, as authorized by subsection (b) of this section, would be of direct benefit to the poor in developing countries because of the overwhelming impact of imported energy costs upon the lives of the poor and their ability to participate in development.

(2) [33] The Congress also finds that energy production from renewable, decentralized sources and energy conservation are vital elements in the development process. Inadequate access by the poor to energy sources as well as the prospect of depleted fossil fuel reserves and higher energy prices require an enhanced effort to expand the energy resources of developing countries through greater emphasis on renewable sources. Renewable and decentralized energy technologies have particular applicability for the poor, especially in rural areas.

(b)(1) [34] In order to help developing countries alleviate their energy problems by improving their ability to use indigenous energy resources to produce the energy needed by their economies, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to enable such countries to prepare for and undertake development of their energy resources. Such assistance may include data collection and analysis, the training of skilled personnel, research on and development of suitable energy sources, and pilot projects to test new methods of energy production.

(2) [34] The President is authorized to furnish assistance under this chapter for cooperative programs with developing countries in energy production and conservation through research on and development and use of small-scale, decentralized, renewable energy sources for rural areas carried out as integral parts of rural development efforts in accordance with section 103 of this Act. Such programs shall also be directed toward the earliest practicable development and use of energy technologies which are environmentally acceptable, require minimum capital investment, are most acceptable to and affordable by the people using them, are simple and inexpensive to use and maintain, and are transferable from one region of the world to another. Such programs may include re-

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[34] Sec. 304(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533; 94 Stat. 3146) redesignated pars. (1) and (2) of subsec. (b) as subpars. (A) and (B), respectively, substituted the reference to fiscal year 1981 in lieu of a reference to fiscal year 1980, and added a new par. (2). Subsequently, subpar. (B) was repealed by sec. 1211(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 99 Stat. 190). It previously read as follows: "Of the funds made available to carry out this section, up to $7,000,000 for the fiscal year 1981 shall be used for purposes of paragraph (A) to facilitate geological and geophysical survey work to locate potential oil, natural gas, and coal reserves and to encourage exploration for potential oil, natural gas, and coal reserves in developing countries which are not members of the Organization of Petroleum Exporting Countries".

search on and the development, demonstration, and application of suitable energy technologies (including use of wood); analysis of energy uses, needs, and resources; training and institutional development; and scientific interchange.

(c)[35] The agency primarily responsible for administering this part and the Department of Energy shall coordinate with one another, to the maximum extent possible, the planning and implementation of energy programs under this chapter.

(d)[35] The President is authorized to furnish assistance, on such terms and conditions as he may determine, for the following activities, to the extent that such activities are not authorized by sections 103, 104, and 105 of this Act:

(1) programs of technical cooperation and development, particularly the development efforts of United States private and voluntary agencies and regional and international development organizations;

(2)[36] programs of research into, and evaluation of, the process of economic development in less developed countries and areas, into the factors affecting the relative success and costs of development activities, and into the means, techniques, and such other aspects of development assistance as the President may determine in order to render such assistance of increasing value and benefit;

(3) programs of reconstruction following natural or manmade disasters and programs of disaster preparedness, including the prediction of and contingency planning for natural disasters abroad;[37]

(4) programs designed to help solve special development problems in the poorest countries and to make possible proper utilization of infrastructure and related projects funded with earlier United States assistance; and

(5) programs of urban development, with particular emphasis on small, labor intensive enterprises, marketing systems for small producers, and financial and other institutions which enable the urban poor to participate in the economic and social development of their country.

(e)[35] (1) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $207,000,000 for fiscal year 1986 and $207,000,000 for fiscal year 1987.[38]

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[35] Sec. 304 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533; 94 Stat. 3146) redesignated subsec. (c) as subsec. (d), amended former subsec. (d) and redesignated it as subsec. (e), and added a new subsec. (c). Subsec. (f) was added by sec. 307(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 99 Stat. 190).

[36] Sec. 104(b)(1) of the International Development Cooperation Act of 1979 (Public Law 96-53; 93 Stat. 360) struck out par. (2), which concerned various programs designed to alleviate energy problems experienced by developing countries, and redesignated pars. (3) through (6) as pars. (2) through (5), respectively.

[37] The reference to the program of disaster preparedness was added by sec. 304(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1533).

[38] The authorization figures for fiscal years 1986 and 1987 were added by sec. 309(b) of the International Security and Development Act of 1985 (Public Law 99-83; 99 Stat. 190). Authorizations for recent years included the following: fiscal year 1976--$99,550,000; fiscal year 1977—$104,500,000; fiscal year 1978—$105,000,000; fiscal year 1979—$126,244,000; fiscal year 1980—$125,000,000; fiscal year 1981—$140,000,000; fiscal year 1982—$147,200,000; fiscal year 1983—

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(2) Amounts appropriated under this section are authorized to remain available until expended.

(f) [35] Of the amounts authorized to be appropriated to carry out this chapter $5,000,000 for fiscal year 1986 and $5,000,000 for fiscal year 1987 shall be used to finance cooperative projects among the United States, Israel, and developing countries.

Sec. 107.[39] **Appropriate Technology.**—(a) In carrying out activities under this chapter, the President shall place special emphasis on the use of relatively smaller, cost-saving, labor-using technologies that are generally most appropriate for the small farms, small businesses, and small incomes of the poor.

(b) Funds made available to carry out this chapter should be used to the extent practicable for activities in the field of appropriate technology, including support of an expanded and coordinated private effort to promote the development and dissemination of appropriate technology in developing countries.

Sec. 108.[40] **Application of Existing Provision.**—* * * [Repealed—1978]

Sec. 108.[41] **Private Sector Revolving Fund.**—(a) The Congress finds that the development of private enterprise, including cooperatives, is a vital factor in the stable growth of developing countries and in the development and stability of a free, open, and equitable international economic system. It is therefore in the best interests of the United States to assist the development of the private sector in developing countries and to engage the United States private sector in that process. In order to promote such private sector development, the President is authorized to establish a revolving fund account in the United States Treasury. All funds deposited in such account shall, notwithstanding any provision in an appropriation Act to the contrary, be free from fiscal year limitations.

(b) Of the funds made available under this chapter in each of the fiscal years 1986 and 1987 up to $18,000,000 may be deposited in

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$147,200,000; fiscal year 1984—$160,000,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "Private Sector, Environment, and Energy, Development Assistance":

"For necessary expenses to carry out the provisions of section 106, $120,709,000: *Provided*, That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further*, That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project."

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, also provided the following for "Science and Technology, Development Assistance": "For necessary expenses to carry out the provisions of section 106, $8,662,270."

The amount for "Private Sector, Environment, and Energy, Development Assistance" for fiscal year 1989 does not include funds appropriated separately for sub-Saharan Africa.

Sec. 105 of Public Law 96–53 struck out language in subsec. (e) which provided $30,000,000 during the period July 1, 1975, to Sept. 3, 1977, for reimbursement to private voluntary agencies of the United States for costs incurred with respect to the shipment of food and nonfood commodities provided through private donations.

[39] 22 U.S.C. 2151e. Sec. 107, as added by sec. 306 of Public Law 94–161, was amended and restated by sec. 107 of the International Development and Food Assistance Act of 1978 (Public Law 95–424; 92 Stat. 947).

[40] Sec. 108, as added by the FA Act of 1973, was repealed by sec. 102(g)(2)(K)(i) of the International Development and Food Assistance Act of 1978 (92 Stat. 943).

[41] 22 U.S.C. 2151f. Sec. 108(a)-(h) was added by the International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984; Public Law 98–151; 97 Stat. 972). Sec. 101(b)(2) of Public Law 98–151 stipulated that sec. 108 would be enacted as contained in sec. 407 of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983.

this account.[42] Such funds used in accordance with the policies and authorities of this section shall be in addition to other funds available for private sector activities under other authorities in this Act. Any reflows and income arising from activities carried out pursuant to this section, including loan repayments and fee income (as provided in subsection (e) of this section), shall be deposited into the revolving fund and remain available to carry out the purposes of this section. All funds in such account may be invested in obligations of the United States.

(c)(1) The agency primarily responsible for administering this part is authorized to use the funds maintained in this revolving fund account to furnish assistance in furtherance of the policy of subsection (a) on such terms and conditions as it may determine. Amounts in the revolving fund account shall be available for obligation for assistance under this section only to such extent as may be provided in advance in appropriation Acts. Assistance may be provided under this section without regard to sections 604(a) and 620(r) of this Act.

(2) Assistance under this section may be provided only to support private sector activities which—

(A) are consistent with the United States development assistance policies set forth in section 102 of this Act and with the development priorities of the host country;

(B) are the types of activities for which assistance may be provided under sections 103 through 106 of this Act;

(C) will have a demonstration effect;

(D) will be innovative;

(E) are financially viable;

(F) will maximize the development impact appropriate to the host country, particularly in employment and the use of appropriate technology; and

(G) are primarily directed to making available to small business enterprises and cooperatives necessary support and services which are not otherwise generally available.

In determining whether an enterprise is a small business enterprise, the agency primarily responsible for administering this part shall take into consideration the enterprise's total net fixed assets and number of employees, together with the relevant definition utilized by the host country government and the International Bank for Reconstruction and Development and other international organizations.

(3)(A) Not more than $3,000,000 may be made available under this section to support any one project.

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[42] Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for the "Private Sector Revolving Fund":

"For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, not to exceed $9,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1989, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $12,000,000.

"During fiscal year 1989, total commitments to guarantee loans shall not exceed $25,000,000 of contingent liability for loan principal."

(B) Not more than 50 per centum of the financial support for any project may be provided under this section, and a substantial portion of the financial support for a project assisted under this section must be provided by sources within the host country.

(C) Not more than 20 per centum of the assets of the revolving fund account under this section may be used to support projects in any one country.

(D) In order to maximize the impact on institution building, loans under this section shall be made primarily to intermediary entities which provide necessary support and services for private sector activities.

(E) Loans under this section shall be at or near the interest rate otherwise available to the recipient.

(d)(1) If at any time the assets of the revolving fund account exceeds $100,000,000, the President shall remit the amount in excess of $100,000,000 to the United States Treasury.

(2) As used in this section, "assets" includes amounts in the revolving fund account plus the value of investments made with amounts from the fund plus the current value of outstanding obligations under loans under this section.

(3) In addition to the requirement of paragraph (1), at the end of any fiscal year, the agency primarily responsible for administering this part may determine that amounts in the revolving fund are sufficient to permit the remittance to the United States Treasury of an amount equal to a portion or the total amount of appropriated funds deposited in the revolving fund. Any such remittance shall be deemed to be a decrease in the appropriated funds in the revolving fund. After remittance has been made of an amount equal to the total amount of appropriated funds, the revolving fund shall consist and be deemed to consist entirely of nonappropriated funds.

(e) A fee may be charged, where appropriate, in carrying out activities with funds from the revolving fund authorized in this section. The amount of any such fee shall be determined by the agency primarily responsible for administering this part.

(f) In the event the revolving fund is terminated, all unobligated money in the fund at the time of such termination shall be transferred to and become part of the miscellaneous receipts account of the Treasury.

(g) As part of its annual congressional presentation documents submitted to the Congress, the agency primarily responsible for administering this part shall include a description of projects proposed to be funded from the revolving fund account for that fiscal year. To the extent that projects are proposed for funding which are not contained in the annual congressional presentation documents, at least fifteen days' advance notification shall be provided to the Congress in accordance with section 634A of this Act.

(h) Not later than December 31 of each year, the President shall submit a comprehensive report which details all projects funded under this section during the previous fiscal year, all reflows to the revolving fund account, a status report on all projects currently contained in the fund's portfolio. Such reports shall include, but not be limited to, information regarding numbers and kinds of beneficiaries reached, amounts and kinds of benefits provided by the funded projects to targeted populations, and a justification for projects within the context of the goals and objectives of the United States development assistance program.

(i)(1) [43] To carry out the purposes of subsection (a), in addition to the other authorities set forth in this section, the agency primarily responsible for administering this part is authorized to issue guarantees on such terms and conditions as it shall determine assuring against losses incurred in connection with loans made to projects that meet the criteria set forth in subsection (c). The full faith and credit of the United States is hereby pledged for the full payment and performance of such guarantees.

(2) Loans guaranteed under this subsection shall be on such terms and conditions as the agency may prescribe, except for the following:

(A) The agency shall issue guarantees only when it is necessary to alleviate a credit market imperfection.

(B) Loans guaranteed shall provide for complete amortization within a period not to exceed ten years or, if the principal purpose of the guaranteed loan is to finance the construction or purchase of a physical asset with a useful life of less than ten years, within a period not to exceed such useful life.

(C) No loan guaranteed to any one borrower may exceed 50 percent of the cost of the activity to be financed, or $3,000,000, whichever is less, as determined by the agency.

(D) No loan may be guaranteed unless the agency determines that the lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

(E) The fees earned from the loan guarantees issued under this subsection shall be deposited in the revolving fund account as part of the guarantee reserve established under paragraph (5) of this subsection. Fees shall be assessed at a level such that the fees received, plus the funds from the revolving fund account placed in the guarantee reserve satisfy the requirements of paragraph (5). Fees shall be reviewed every twelve months to ensure that the fees assessed on new loan guarantees are at the required level.

(F) Any guarantee shall be conclusive evidence that such guarantee has been properly obtained, and that the underlying loan as contracted qualifies for such guarantee. Except for fraud or material misrepresentation for which the parties seeking payment under such guarantee are responsible, such guarantee shall be presumed to be valid, legal, and enforceable.

(G) The agency shall determine that the standards used by the lender for assessing the credit risk of new and existing guaranteed loans are reasonable. The agency shall require that there be a reasonable assurance of repayment before credit assistance is extended.

(H) Commitments to guarantee loans may be made by the agency only to the extent that the total loan principal, any part of which is guaranteed, will not exceed the amount specified in annual appropriations Acts.

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[43] 22 U.S.C. 2151f(i). Sec. 108(i) was added by sec. 2211 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418, 102 Stat. 1335).

(3) To the extent that fees are not sufficient as specified under paragraph (2)(E) to cover expected future liabilities, appropriations are authorized to maintain an appropriate reserve.

(4) The losses guaranteed under this subsection may be in dollars or in other currencies. In the case of loans in currencies other than dollars, the guarantees issued shall be subject to an overall payment limitation expressed in dollars.

(5) The agency shall segregate in the revolving fund account and hold as a reserve an amount estimated to be sufficient to cover the agency's expected net liabilities on the loan guarantees outstanding under this subsection; except that the amount held in reserve shall not be less than 25 percent of the principal amount of the agency's outstanding contingent liabilities on such guarantees. Any payments made to discharge liabilities arising from the loan guarantees shall be paid first out of the assets in the revolving fund account and next out of other funds made available for this purpose.

Sec. 109.[44] Transfer of Funds.—Whenever [45] the President determines it to be necessary for the purposes of this chapter, not to exceed 15 per centum of the funds made available for any provision of this chapter may be transferred to, and consolidated with, the funds made available for any other provision of this chapter, and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 25 per centum of the amount of funds made available for such provision. The authority of sections 610(a) and 614(a) of this Act may not be used to transfer funds made available under this chapter for use for purposes of any other provision of this Act except that the authority of such sections may be used to transfer for the purposes of section 667 not to exceed five per centum of the amount of funds made available for section 667(a)(1).[46]

Sec. 110.[47] Cost-Sharing and Funding Limits.—No assistance shall be furnished by the United States Government to a country under sections 103 through 106 of this Act until the country provides assurances to the President, and the President is satisfied, that such country provide at least 25 per centum of the costs of the entire program, project, or activity with respect to which such assistance is to be furnished, except that such costs borne by such country may be provided on an "in-kind" basis.[48]

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[44] 22 U.S.C. 2151g. Sec. 109 was added by sec. 2(3) of the FA Act of 1973.

[45] The words "Notwithstanding sec. 108 of this Act," which had previously appeared in front of "whenever," were struck by sec. 102(g)(2)(K)(ii) of the International Development and Food Assistance Act of 1978 (92 Stat. 943).

[46] The words to this point beginning with "except that the authority of such sections * * *" were added by sec. 129(b) of the International Development and Food Assistance Act of 1977 (91 Stat. 543).

[47] 22 U.S.C. 2151h. Sec. 110 was added by sec. 2(3) of the FA Act of 1973. Sec. 1211(a)(3) of the International Security and Development Cooperation Act of 1985 deleted par. (b) and removed the "(a)" designation from the preceding paragraph. Par. (b) previously read as follows:

"No grant assistance shall be disbursed by the United States Government under sections 103 through 106 of this Act for a project, for a period exceeding thirty-six consecutive months, without further justification satisfactory to the Congress and efforts being made to obtain sources of financing within that country and from other foreign countries and multilateral organizations.".

The initial phrase of subsec. (b), which had been added by Public Law 95–88 (91 Stat. 535), was struck by sec. 112(b)(2) of the International Development and Food Assistance Act of 1978 (92 Stat. 949). It previously read as follows:

"Except for grants to countries determined to be relatively least developed based on the United Nations Conference on Trade and Development list of 'relatively least developed countries',".

Sec. 111.[49] **Development and Use of Cooperatives.**—In order to strengthen the participation of the rural and urban poor in their country's development, high priority shall be given to increasing the use of funds made available under this Act for technical and capital assistance in the development and use [50] of cooperatives in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life.[51]

Sec. 112.[52] **Prohibiting Police Training.**—* * * [Repealed—1974]

Sec. 113.[53] **Integrating Women Into National Economies.**—(a) In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, this part shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort.

(b) [53] (1) Up to $10,000,000 of the funds made available each fiscal year under this chapter shall be used, in addition to funds otherwise available for such purposes, for assistance on such terms and conditions as the President may determine to encourage and promote the participation and integration of women as equal partners in the development process in the developing countries. These funds shall be used primarily to support activities which will increase the economic productivity and income earning capacity of women.

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[48] The following phrase, which had been added by Public Law 94-161 (89 Stat. 849) and previously appeared at this point, was struck by sec. 112(b)(1) of the International Development and Food Assistance Act of 1978 (92 Stat. 949): "and except that the President may waive this cost-sharing requirement in the case of a project or activity in a country which the agency primarily responsible for administering part I of this Act determines is relatively least developed based on the United Nations Conference on Trade and Development list of 'relatively least developed countries.'"

[49] 22 U.S.C. 2151i. Sec. 111, which was added by sec. 2(3) of the FA Act of 1973, was amended by sec. 308 of Public Law 94-161 (89 Stat. 849). It formerly read as follows: "In order to strengthen the participation of the urban and rural poor in their country's development, not less than $20,000,000 of the funds made available for the purposes of this chapter shall be available during the fiscal years 1974 and 1975 only for assistance in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life."

[50] The words "technical and capital assistance in the development and use" were inserted in lieu of "assistance in the development" by sec. 107(a) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 535).

[51] A sentence, which earmarked funds specifically for technical assistance to carry out the purposes of this section and had previously appeared at this point, was repealed by sec. 122 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 366).

[52] Sec. 112, which was added by sec. 2(3) of the FA Act of 1973, was repealed by sec. 30(b) of the FA Act of 1974. (See sec. 660 of this Act, "Prohibiting Police Training," page 242.)

[53] 22 U.S.C. 2151k. Sec. 113, as added by sec. 2(3) of the FA Act of 1973, was amended and restated by sec. 108 of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 536). Sec. 113 formerly read as follows:

"SEC. 113. INTEGRATING WOMEN INTO NATIONAL ECONOMIES.—Part I of this Act shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economies of foreign countries, thus improving their status and assisting the total development effort."

Subsecs. (b) and (c), as added by Public Law 95-88 and which required a report from the President concerning the impact of development programs, projects, and activities on the integration of women into the developing economies of countries receiving assistance under this part, were repealed by sec. 122 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 366) (such report was submitted to the Congress on Aug. 3, 1978). This subsec. (b), originally added as subsec. (d) by Public Law 95-424 (92 Stat. 947), was redesignated as subsec. (b) by Public Law 96-53.

The current text of subsec. (c) was added by sec. 305 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1533).

(2) Nothing in this section shall be construed to authorize the establishment of a separate development assistance program for women.

(c)[53] Not less than $500,000 of the funds made available under this chapter for fiscal year 1982 shall be expended on international programs which support the original goals of the United Nations Decade for Women.

Sec. 114.[54] Limiting Use of Funds for Abortions or Involuntary Sterilization.—* * * [Repealed—1978]

Sec. 115.[55] Prohibiting Use of Funds for Certain Countries.—* * * [Repealed—1978]

Sec. 116.[56] Human Rights.—(a) No assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, causing the disappearance of persons by the abduction and clandestine detention of those persons,[57] or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

(b) In determining whether this standard is being met with regard to funds allocated under this part, the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives may require the Administrator primarily responsible for administering part I of this Act to submit in writing information demonstrating that such assistance will directly benefit the needy people in such country, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit the needy people in such country. If either committee or either House of Congress disagrees with the Administrator's justification it may initiate action to terminate assistance to any country by a concurrent resolution under section 617 of this Act.

(c)[58] In determining whether or not a government falls within the provisions of subsection (a) and in formulating development as-

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[54] Sec. 114, as added by the FA Act of 1973, was repealed by sec. 104(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 947). See sec. 104(f) (page 32) of this Act for new language concerning this issue.

[55] Sec. 115, as added by the FA Act of 1974, was repealed by sec. 102(f) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 942).

[56] 22 U.S.C. 2151n. Sec. 116 was added by sec. 310 of Public Law 94–161 (89 Stat. 849).

[57] This phrase beginning with "causing the disappearance of * * *" was added by sec. 701(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3156).

[58] Sec. 111 of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 537) amended and restated subsecs. (c) and (d), and added a new subsec. (e). Subsecs. (c) and (d) formerly read as follows:

"(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross,

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sistance programs under this part, the Administrator shall consider, in consultation with the Assistant Secretary [59] for Human Rights and Humanitarian Affairs—

(1) the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States; and

(2) specific actions which have been taken by the President or the Congress relating to multilateral or security assistance to a less developed country because of the human rights practices or policies of such country.

(d) [58] The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by January 31 of each year, a full and complete report regarding—

(1) [60] the status of internationally recognized human rights, within the meaning of subsection (a)—

(A) in countries that receive assistance under this part, and

(B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act;

(2) [61] wherever applicable, practices regarding coercion in population control, including coerced abortion and involuntary sterilization; and

(3) the steps the Administrator has taken to alter United States programs under this part in any country because of human rights considerations.

(e) [58] (1) [62] The President is authorized and encouraged to use not less than $3,000,000 of the funds made available under this

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or groups or persons acting under the authority of the United Nations or of the Organization of American States.

"(d) The President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, in the annual presentation materials on proposed economic development assistance programs, a full and complete report regarding the steps he has taken to carry out the provisions of this section."

[59] The words "Assistant Secretary" were inserted in lieu of "Coordinator" by sec. 109(a)(2) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105, 91 Stat. 846).

[60] Par. (1) was amended and restated by sec. 504 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 378) by adding the requirement contained in clause (B). Sec. 504 also required a report from the Secretary of State by Nov. 15, 1979, on the impact on the foreign relations of the United States of the reports required by this Act on the human rights practices of foreign governments.

[61] A new paragraph (2) was added and the former paragraph (2) redesignated as paragraph (3) by sec. 127 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1342).

[62] The first phrase in par. (1), "The President is authorized and encouraged to use not less than", was added by sec. 109(1) of the International Development and Food Assistance Act of 1978 (Public Law 94-424, 92 Stat. 947).

The authorization level of $3,000,000 and the reference to funds available under chapter 4 of part II were added by sec. 1002(a)(1) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1052). Previously, amendments by sec. 306 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1533), sec. 504 of Public Law 96-533 (94 Stat. 378), and sec. 109(2) of Public Law 94-424 (92 Stat. 947) authorized the use of $1,500,000 for this purpose in fiscal years 1982/1983, fiscal year 1981,

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chapter and chapter 4 of part II for each fiscal year for studies to identify, and for openly carrying out, programs and activities which will encourage or promote increased adherence to civil and political rights, as set forth in the Universal Declaration of Human Rights, in countries eligible for assistance under this chapter. None of these funds may be used, directly or indirectly, to influence the outcome of any election in any country.

(2) [62] (A) Of the amounts made available to carry out this subsection, $500,000 for the fiscal year 1984, $1,000,000 for the fiscal year 1985, and $1,500,000 for the fiscal year 1986 and for each fiscal year thereafter shall be used for grants to nongovernmental organizations in South Africa promoting political, economic, social, juridical, and humanitarian efforts to foster a just society and to help victims of apartheid.

(B) In making grants under this paragraph, priority should be given to those organizations or activities which contribute, directly or indirectly, to promoting a just society, to aiding victims of official discrimination, and to the nonviolent elimination of apartheid. Priority should also be given to those organizations whose programs and activities evidence community support. Grants may be made only for organizations whose character and membership reflect the objective of a majority of South Africans for an end to the apartheid system of separate development and for interracial cooperation and justice. Grants may not be made under this paragraph to governmental institutions or organizations or to organizations financed or controlled by the Government of South Africa.

(C)(i) Except as provided in clause (ii), grants under this paragraph may not exceed $10,000.

(ii) Of the amounts allocated to carry out this paragraph, $100,000 shall be available each fiscal year only for grants to organizations which have available for their use resources whose value is at least equal to the amount of the grant under this paragraph. Grants of up to $30,000 may be made to such organizations. For purposes of this clause, the term "resources" includes, in addition to cash assets, in-kind assets and contributions such as equipment, materials, and staff and volunteer time.

(D) Within 9 months after the date of enactment of this paragraph, the Administrator of the Agency for International Development shall prepare, in consultation with the Secretary of State, and shall submit to the Congress a report detailing grants and proposed grants under this paragraph and their conformity with the provisions of this paragraph.

(f) [63] (1) Of the funds made available to carry out subsection (e)(2)(A) for each fiscal year, not less than $500,000 shall be used for direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of

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and fiscal year 1979, respectively. The original text of subsec. (e), added by sec. 111 of Public Law 95-88 (91 Stat. 537), authorized the use of $750,000 for this purpose during fiscal year 1978.

The authorization level of $1,500,000 for the fiscal year 1986 and for each fiscal year thereafter was added by sec. 202 of Public Law 99-440 (100 Stat. 1095).

The paragraph designation "(1)" and a new par. (2) were added by sec. 1002(a)(3) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1052).

[63] Subsecs. (f) and (g) were added by sec. 202(b) of Public Law 99-440 (100 Stat. 1095).

protesters and prisoners, and for support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies such as—

(A) removal of black populations from certain geographic areas on account of race or ethnic origin,

(B) denationalization of blacks, including any distinctions between the South African citizenships of blacks and whites,

(C) residence restrictions based on race or ethnic origin,

(D) restrictions on the rights of blacks to seek employment in South Africa and to live wherever they find employment in South Africa, and

(E) restrictions which make it impossible for black employees and their families to be housed in family accommodations near their place of employment.

(2)(A) No grant under this subsection may exceed $100,000.

(B) The average of all grants under this subsection made in any fiscal year shall not exceed $70,000.

(g)[63] Of the funds made available to carry out subsection (e)(2)(A) for each fiscal year, $175,000 shall be used for direct assistance to families of victims of violence such as "necklacing" and other such inhumane acts. An additional $175,000 shall be made available to black groups in South Africa which are actively working toward a multi-racial solution to the sharing of political power in that country through nonviolent, constructive means.

Sec. 117.[64] Assistance for Disadvantaged South Africans.—In providing assistance under this chapter or under chapter 4 of part II of this Act for disadvantaged South Africans, priority shall be given to working with and through South African nongovernmental organizations whose leadership and staff are selected on a nonracial basis, and which have the support of the disadvantaged communities being served. The measure of this community support shall be the willingness of a substantial number of disadvantaged persons to participate in activities sponsored by these organizations. Such organizations to which such assistance may be provided include the Educational Opportunities Council, the South African Institute of Race Relations, READ, professional teachers' unions, the Outreach Program of the University of the Western Cape, the Funda Center in Soweto, SACHED, UPP Trust, TOPS, the Wilgespruit Fellowship Center (WFC), and civic and other organizations working at the community level which do not receive funds from the Government of South Africa.

Sec. 117.[65] Environment and Natural Resources.—(a) The Congress finds that if current trends in the degradation of natural re-

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[64] 22 U.S.C. 2151o. Sec. 117 was added by sec. 201(b) of Public Law 99-440 (100 Stat. 1094). A previous version of sec. 117, "Infant Nutrition", was repealed in 1978.

[65] 22 U.S.C. 2151p. Sec. 117 was redesignated from being sec. 118 by sec. 301(1) of Public Law 99-529, apparently resulting in the creation of two sections 117. Sec. 301(2) of Public Law 99-529 (100 Stat. 3014) further deleted subsec. (d) of that section which dealt with tropical forests, and then sec. 301(3) of Public Law 99-529 added a new section 118 entitled "Tropical Forests". This section, as added by sec. 113 of Public Law 95-88 (91 Stat. 537) and amended by sec. 110 of Public Law 95-424 (92 Stat. 948) and sec. 122 of Public Law 96-53 (93 Stat. 948), was further amended and restated by sec. 307 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1533). This section previously read as follows:

"Sec. 118. Environment and Natural Resources.—(a) The President is authorized to furnish assistance under this part for developing and strengthening the capacity of less developed coun-

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sources in developing countries continue, they will severely undermine the best efforts to meet basic human needs, to achieve sustained economic growth, and to prevent international tension and conflict. The Congress also finds that the world faces enormous, urgent, and complex problems, with respect to natural resources, which require new forms of cooperation between the United States and developing countries to prevent such problems from becoming unmanageable. It is, therefore, in the economic and security interests of the United States to provide leadership both in thoroughly reassessing policies relating to natural resources and the environment, and in cooperating extensively with developing countries in order to achieve environmentally sound development.

(b) In order to address the serious problems described in subsection (a), the President is authorized to furnish assistance under this part for developing and strengthening the capacity of developing countries to protect and manage their environment and natural resources. Special efforts shall be made to maintain and where possible to restore the land, vegetation, water, wildlife, and other resources upon which depend economic growth and human well-being, especially of the poor.

(c)(1) The President, in implementing programs and projects under this chapter, shall take fully into account the impact of such programs and projects upon the environment and natural resources of developing countries. Subject to such procedures as the President considers appropriate, the President shall require all agencies and officials responsible for programs or projects under this chapter—

(A) to prepare and take fully into account an environmental impact statement for any program or project under this chapter significantly affecting the environment of the global commons outside the jurisdiction of any country, the environment of the United States, or other aspects of the environment which the President may specify; and

(B) to prepare and take fully into account an environmental assessment of any proposed program or project under this chapter significantly affecting the environment of any foreign country.

Such agencies and officials should, where appropriate, use local technical resources in preparing environmental impact statements and environmental assessments pursuant to this subsection.

(2) The President may establish exceptions from the requirements of this subsection for emergency conditions and for cases in which compliance with those requirements would be seriously detrimental to the foreign policy interests of the United States.

Sec. 118.[66] Tropical Forests.

(a) IMPORTANCE OF FORESTS AND TREE COVER.—In enacting section 103(b)(3) of this Act the Congress recognized the importance of

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tries to protect and manage their environment and natural resources. Special efforts shall be made to maintain and where possible restore the land, vegetation, water, wildlife and other resources upon which depend economic growth and human well-being especially that of the poor.

"(b) In carrying out programs under this chapter, the President shall take into consideration the environmental consequence of development actions."

[66] Sec. 118 was added by sec. 301(3) of Public Law 99-529 (100 Stat. 3014). See also explanation at beginning of previous footnote.

forests and tree cover to the developing countries. The Congress is particularly concerned about the continuing and accelerating alteration, destruction, and loss of tropical forests in developing countries, which pose a serious threat to development and the environment. Tropical forest destruction and loss—

(1) result in shortages of wood, especially wood for fuel; loss of biologically productive wetlands; siltation of lakes, reservoirs, and irrigation systems; floods; destruction of indigenous peoples; extinction of plant and animal species; reduced capacity for food production; and loss of genetic resources; and

(2) can result in desertification and destabilization of the earth's climate.

Properly managed tropical forests provide a sustained flow of resources essential to the economic growth of developing countries, as well as genetic resources of value to developed and developing countries alike.

(b) Priorities.—The concerns expressed in subsection (a) and the recommendations of the United States Interagency Task Force on Tropical Forests shall be given high priority by the President—

(1) in formulating and carrying out programs and policies with respect to developing countries, including those relating to bilateral and multilateral assistance and those relating to private sector activities; and

(2) in seeking opportunities to coordinate public and private development and investment activities which affect forests in developing countries.

(c) Assistance to Developing Countries.—In providing assistance to developing countries, the President shall do the following:

(1) Place a high priority on conservation and sustainable management of tropical forests.

(2) To the fullest extent feasible, engage in dialogues and exchanges of information with recipient countries—

(A) which stress the importance of conserving and sustainably managing forest resources for the long-term economic benefit of those countries, as well as the irreversible losses associated with forest destruction, and

(B) which identify and focus on policies of those countries which directly or indirectly contribute to deforestation.

(3) To the fullest extent feasible, support projects and activities—

(A) which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and

(B) which help developing countries identify and implement alternatives to colonizing forested areas.

(4) To the fullest extent feasible, support training programs, educational efforts, and the establishment or strengthening of institutions which increase the capacity of developing countries to formulate forest policies, engage in relevant land-use planning, and otherwise improve the management of their forests.

(5) To the fullest extent feasible, help end destructive slash-and-burn agriculture by supporting stable and productive farming practices in areas already cleared or degraded and on

lands which inevitably will be settled, with special emphasis on demonstrating the feasibility of agroforestry and other techniques which use technologies and methods suited to the local environment and traditional agricultural techniques and feature close consultation with and involvement of local people.

(6) To the fullest extent feasible, help conserve forests which have not yet been degraded, by helping to increase production on lands already cleared or degraded through support of reforestation, fuelwood, and other sustainable forestry projects and practices, making sure that local people are involved at all stages of project design and implementation.

(7) To the fullest extent feasible, support projects and other activities to conserve forested watersheds and rehabilitate those which have been deforested, making sure that local people are involved at all stages of project design and implementation.

(8) To the fullest extent feasible, support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal, and processing, including reforestation, soil conservation, and other activities to rehabilitate degraded forest lands.

(9) To the fullest extent feasible, support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation, including research in agroforestry, sustainable management of natural forests, small-scale farms and gardens, small-scale animal husbandry, wider application of adopted traditional practices, and suitable crops and crop combinations.

(10) To the fullest extent feasible, conserve biological diversity in forest areas by—

(A) supporting and cooperating with United States Government agencies, other donors (both bilateral and multilateral), and other appropriate governmental, intergovernmental, and nongovernmental organizations in efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis;

(B) whenever appropriate, making the establishment of protected areas a condition of support for activities involving forest clearance of degradation; and

(C) helping developing countries identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas.

(11) To the fullest extent feasible, engage in efforts to increase the awareness of United States Government agencies and other donors, both bilateral and multilateral, of the immediate and long-term value of tropical forests.

(12) To the fullest extent feasible, utilize the resources and abilities of all relevant United States Government agencies.

(13) Require that any program or project under this chapter significantly affecting tropical forests (including projects involving the planting of exotic plant species)—

(A) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land, and

(B) take full account of the environmental impacts of the proposed activities on biological diversity,

as provided for in the environmental procedures of the Agency for International Development.

(14) Deny assistance under this chapter for—

(A) the procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner which minimizes forest destruction and that the proposed activity will produce positive economic benefits and sustainable forest management systems; and

(B) actions which significantly degrade national parks or similar protected areas which contain tropical forests or introduce exotic plants or animals into such areas.

(15) Deny assistance under this chapter for the following activities unless an environmental assessment indicates that the proposed activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development:

(A) Activities which would result in the conversion of forest lands to the rearing of livestock.

(B) The construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undegraded forest lands.

(C) The colonization of forest lands.

(D) The construction of dams or other water control structures which flood relatively undegraded forest lands.

(d) PVOs AND OTHER NONGOVERNMENTAL ORGANIZATIONS.—Whenever feasible, the President shall accomplish the objectives of this section through projects managed by private and voluntary organizations or international, regional, or national nongovernmental organizations which are active in the region or country where the project is located.

(e) COUNTRY ANALYSIS REQUIREMENTS.—Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

(1) the actions necessary in that country to achieve conservation and sustainable management of tropical forests, and

(2) the extent to which the actions proposed for support by the Agency meet the needs thus identified.

(f) ANNUAL REPORT.—Each annual report required by section 634(a) of this Act shall include a report on the implementation of this section.

Sec. 119.[67] Renewable and Unconventional Energy Technologies. * * * [Repealed—1980]

Sec. 119.[68] Endangered Species.—(a) The Congress finds the survival of many animal and plant species is endangered by overhunting, by the presence of toxic chemicals in water, air and soil, and by the destruction of habitats. The Congress further finds that the extinction of animal and plant species is an irreparable loss with potentially serious environmental and economic consequences for developing and developed countries alike. Accordingly, the preservation of animal and plant species through the regulation of the hunting and trade in endangered species, through limitations on the pollution of natural ecosystems, and through the protection of wildlife habitats should be an important objective of the United States development assistance.

(b) In order to preserve biological diversity, the President is authorized to furnish assistance under this part to assist countries in protecting and maintaining wildlife habitats and in developing sound wildlife management and plant conservation programs. Special efforts should be made to establish and maintain wildlife sanctuaries, reserves, and parks; to enact and enforce anti- poaching measures; and to identify, study, and catalog animal and plant species, especially in tropical environments.

(c) Funding Level.—For fiscal year 1987, not less than $2,500,000 of the funds available to carry out this part (excluding funds made available to carry out section 104(c)(2), relating to the Child Survival Fund) shall be allocated for assistance pursuant to subsection (b) for activities which were not funded prior to fiscal year 1987. In addition, the Agency for International Development shall, to the fullest extent possible, continue and increase assistance pursuant to subsection (b) for activities for which assistance was provided in fiscal years prior to fiscal year 1987.

(d) Country Analysis Requirements.—Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

(1) the actions necessary in that country to conserve biological diversity, and

(2) the extent to which the actions proposed for support by the Agency meet the needs thus identified.

(e) Local Involvement.—To the fullest extent possible, projects supported under this section shall include close consultation with and involvement of local people at all stages of design and implementation.

(f) PVOs and Other Nongovernmental Organizations.—Whenever feasible, the objectives of this section shall be accomplished through projects managed by appropriate private and voluntary organizations, or international, regional, or national nongovernmental organizations, which are active in the region or country where the project is located.

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[67] Sec. 119, which had been added by Public Law 95-88 (91 Stat. 528) and amended by sec. 111 of the International Development and Food Assistance Act of 1978 (92 Stat. 948) and by sec. 107 of the International Development Cooperation Act of 1979 (93 Stat. 362), was repealed by sec. 304(g) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3147). See sec. 106 of this Act for text concerning energy technologies.

[68] 22 U.S.C. 2151q. Sec. 119, pars. (a) and (b) were added by sec. 702 of the International Environment Protection Act of 1983 (title VII of the Department of State Authorization Act, Fiscal Years 1984 and 1985, Public Law 98-164, 97 Stat. 1045). Pars. (c) through (h) were added by sec. 302 of Public Law 99-529 (100 Stat. 3017).

(g) ACTIONS BY AID.—The Administrator of the Agency for International Development shall—

(1) cooperate with appropriate international organizations, both governmental and nongovernmental;

(2) look to the World Conservation Strategy as an overall guide for actions to conserve biological diversity;

(3) engage in dialogues and exchanges of information with recipient countries which stress the importance of conserving biological diversity for the long- term economic benefit of those countries and which identify and focus on policies of those countries which directly or indirectly contribute to loss of biological diversity;

(4) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity;

(5) whenever possible, enter into long-term agreements in which the recipient country agrees to protect ecosystems or other wildlife habitats recommended for protection by relevant governmental or nongovernmental organizations or as a result of activities undertaken pursuant to paragraph (6), and the United States agrees to provide, subject to obtaining the necessary appropriations, additional assistance necessary for the establishment and maintenance of such protected areas;

(6) support, as necessary and in cooperation with the appropriate governmental and nongovernmental organizations, efforts to identify and survey ecosystems in recipient countries worthy of protection;

(7) cooperate with and support the relevant efforts of other agencies of the United States Government, including the United States Fish and Wildlife Service, the National Park Service, the Forest Service, and the Peace Corps;

(8) review the Agency's environmental regulations and revise them as necessary to ensure that ongoing and proposed actions by the Agency do not inadvertently endanger wildlife species or their critical habitats, harm protected areas, or have other adverse impacts on biological diversity (and shall report to the Congress within a year after the date of enactment of this paragraph on the actions taken pursuant to this paragraph);

(9) ensure that environmental profiles sponsored by the Agency include information needed for conservation of biological diversity; and

(10) deny any direct or indirect assistance under this chapter for actions which significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas.

(h) ANNUAL REPORTS.—Each annual report required by section 634(a) of this Act shall include, in a separate volume, a report on the implementation of this section.

Sec. 120.[69] **Sahel Development Program—Planning.**—(a) The Congress reaffirms its support of[69] the initiative of the United States Government in undertaking consultations and planning with the countries concerned, and with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations, toward the development and support of a comprehensive long-term African Sahel development program.

(b)[70] The President is authorized to develop a long-term comprehensive development program for the Sahel and other drought-stricken nations in Africa.

(c)[70] In developing this long-term program, the President shall—

(1) consider international coordination for the planning and implementation of such program;

(2) seek greater participation and support by African countries and organizations in determining development priorities; and

(3) begin such planning immediately.

(d)[70] * * * [Repealed—1978]

Sec. 121.[71] **Sahel Development Program—Implementation.**—(a) The President is authorized to furnish assistance, on such terms and conditions as he may determine, for the long-term development of the Sahelian region. Assistance furnished under this section shall be in accordance with a long-term, multidonor development plan which calls for equitable burden sharing with other donors and shall be furnished, whenever appropriate, in cooperation with an international coordinating mechanism.

(b) The President shall prepare an annual report on the Sahel Development Program concerning the allocation of the United States contribution to the Program, the extent of the contributions from other donor countries, the effectiveness of the integrated effort through the Club des Amis du Sahel, and the progress made in achieving the objectives of the program.

(c) There are authorized to be appropriated to the President for purposes of this section beginning in the fiscal year 1978, in addition to funds otherwise available for such purposes, $200,000,000, except that not to exceed $50,000,000, may be appropriated under this section for the fiscal year 1978. In addition to the amount authorized in the preceding sentence and to funds otherwise available for such purposes, there are authorized to be appropriated to the President for purposes of this section $25,000,000.[72] In addition to the amounts authorized in the preceding sentences and to funds otherwise available for such purposes, there are authorized to be appropriated to the President for purposes of this section $86,558,000 for the fiscal year 1986 and $87,750,000 for the fiscal year 1987.[73] Amounts appropriated under this section are authorized to remain available until expended.

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[69] 22 U.S.C. 2151r. Sec. 120, originally added as sec. 639B of this Act by sec. 20 of the FA Act of 1973 and later redesignated as sec. 494B by sec. 101(5) of Public Law 94-161 (89 Stat. 849), was again redesignated as sec. 120 by sec. 115(1) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 539).

The title caption "Sahel Development Program—Planning" was inserted in lieu of "African Development Program" by sec. 115(2) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 539).

The words in the first sentence of subsec. (a), "reaffirms its support of", were substituted in lieu of "supports" by sec. 101(7)(C) of Public Law 94-161 (89 Stat. 849).

[70] Subsecs. (b), (c), and (d) were added by sec. 101(7)(D) of Public Law 94-161 (89 Stat. 849). Subsec. (d) was subsequently repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 959).

[71] 22 U.S.C. 2151s. Sec. 121 was added by sec. 115(3) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 539).

[72] This sentence was added by sec. 108 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 363).

(d) [74] Funds available to carry out this section (including foreign currencies acquired with funds appropriated to carry out this section) may not be made available to any foreign government for disbursement unless the Administrator of the Agency for International Development determines that the foreign government will maintain a system of accounts with respect to those funds which will provide adequate identification of and control over the receipt and expenditure of those funds.

(e) [75] Grants shall be made under this section to Sahel Development Program host governments in order to help them enhance their administrative capabilities to meet the administrative requirements resulting from donor country projects and activities.

Sec. 122.[76] **General Authorities.**—(a) In order to carry out the purposes of this chapter, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to countries and areas through programs of grant and loan assistance, bilaterally or through regional, multilateral, or private entities.

(b) The President is authorized to make loans payable as to principal and interest in United States dollars on such terms and conditions as he may determine, in order to promote the economic development of countries and areas, with emphasis upon assisting long range plans and programs designed to develop economic resources and increase productive capacities. The President shall determine the interest payable on any loan. In making loans under this chapter, the President shall consider the economic circumstances of the borrower and other relevant factors, including the capacity of the recipient country to repay the loan at a reasonable rate of interest, except that loans may not be made at a rate of interest of less than 3 per centum per annum commencing not later than ten years following the date on which the funds are initially made available under the loan, during which ten-year period the rate of interest shall not be lower than 2 per centum per annum, nor higher than the applicable legal rate of interest of the country in which the loan is made.

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[73] The International Security and Development Cooperation Act of 1985 (sec. 809(a), Public Law 99-83, 99 Stat. 263) provided the authorization for fiscal year 1986 and fiscal year 1987. The International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984, Public Law 98-151, 97 Stat. 969) provided an authorization for the fiscal year 1984 of $103,000,000 to carry out sec. 121. An authorization for fiscal year 1985 was not enacted.

The authorizations for fiscal years 1982 and 1983 were $86,558,000 for each of the years and were added by sec. 308(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1535). This amendment replaced an authorization of $88,442,000 for fiscal year 1981, as added by sec. 306 of Public Law 96-533, 94 Stat. 363.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following:

"For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $500,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise made available for such purposes * * *."

Public Law 100-461 made no specific fiscal year 1989 appropriation for the "Sahel Development Program". Funding for the Sahel Development Program is subsumed in the general appropriation for sub-Saharan Africa.

[74] Subsec. (d) was added by sec. 308(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1535).

[75] Subsec. (e) was added by sec. 809(b) of Public Law 99-83, 99 Stat. 264.

[76] 22 U.S.C. 2151t. Subsec. (a) of sec. 122 was added by sec. 102(a) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 940). Sec. 102(b) of that same Act substantially amended subsecs. (b), (c), and (d) of sec. 201 of this Act, consolidating them into one subsec. (b), and then moving it to become subsec. (b) of sec. 122.

(c) [77] Dollar receipts paid during any fiscal year from loans made under this part or from loans made under predecessor foreign assistance legislation shall be deposited in the Treasury as miscellaneous receipts.

(d) [77] Not to exceed $10,000,000 of the funds made available each fiscal year for the purposes of this chapter may be used for assistance on such terms and conditions as the President may determine, to research and educational institutions in the United States for the purpose of strengthening their capacity to develop and carry out programs concerned with the economic and social development of developing countries.

(e) [78] The President shall establish an interagency Development Loan Committee, consisting of such officers from such agencies of the United States Government as he may determine, which shall, under the direction of the President, establish standards and criteria for lending operations under this chapter in accordance with the foreign and financial policies of the United States. Except in the case of officers serving in positions to which they were appointed by the President by and with the advice and consent of the Senate, officers assigned to the Committee shall be so assigned by the President by and with the advice and consent of the Senate.

Sec. 123.[79] Private and Voluntary Organizations and Cooperatives in Overseas Development.—(a) The Congress finds that the participation of rural and urban poor people in their countries' development can be assisted and accelerated in an effective manner through an increase in activities planned and carried out by private and voluntary organizations and cooperatives. Such organizations and cooperatives, embodying the American spirit of self-help and assistance to others to improve their lives and incomes, constitute an important means of mobilizing private American financial and human resources to benefit poor people in developing countries. The Congress declares that it is in the interest of the United States that such organizations and cooperatives expand their overseas development efforts without compromising their private and independent nature. The Congress further declares that the financial resources of such organizations and cooperatives should be supplemented by the contribution of public funds for the purpose of undertaking development activities in accordance with the principles set forth in section 102 and, if necessary and determined on a case- by-case basis, for the purpose of sharing the cost of developing programs related to such activities.[80] The Congress urges the Administrator of the agency primarily responsible for administering this part, in implementing programs authorized under this part, to draw on the resources of private and voluntary organizations and cooperatives to plan and carry out development activities and to establish simplified procedures for the development and approval of programs to be carried out by such private and voluntary organizations and cooperatives as have demonstrated a capacity to undertake effective development activities.[81]

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[77] Subsecs. (c) and (d) were added by sec. 102(c)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 941).

[78] Subsec. (e) formerly appeared in this Act as sec. 204. Such sec. 204 was redesignated as subsec. (e) of this section by sec. 102(d) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 941).

[79] 22 U.S.C. 2151u. Sec. 123 was added by sec. 102(e) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 941).

(b) In order to further the efficient use of United States voluntary contributions for development, relief, and rehabilitation of friendly peoples, the President is authorized to use funds made available for the purposes of this chapter to pay transportation charges on shipments by the American National Red Cross and by United States voluntary agencies registered with the Agency for International Development.[82]

(c) Reimbursement under this section may be provided for transportation charges on shipments from United States ports, or in the case of excess or surplus property supplied by the United States from foreign ports, to ports of entry abroad or to points of entry abroad in cases (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specified country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports.

(d) Where practicable, the President shall make arrangements with the receiving country for free entry of such shipments and for the making available by the country of local currencies for the purpose of defraying the transportation costs of such shipments from the port or point of entry of the receiving country to the designated shipping point of the consignee.

(e) [83] Prohibitions on assistance to countries contained in this or any other Act shall not be construed to prohibit assistance by the agency primarily responsible for administering this part in support of programs of private and voluntary organizations and cooperatives already being supported prior to the date such prohibition becomes applicable. The President shall take into consideration, in any case in which statutory prohibitions on assistance would be applicable but for this subsection, whether continuation of support for such programs is in the national interest of the United States. If the President continues such support after such date, he shall prepare and transmit, not later than one year [84] after such date, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth the reasons for such continuation.

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[80] The words to this point beginning with "and, if necessary * * * " were added by sec. 307(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3147).

[81] The words to this point beginning with "and to establish * * *" were added by sec. 307(2) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3147).

[82] This reference to the Agency for International Development was substituted in lieu of a reference to the Advisory Committee on Voluntary Foreign Aid by sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 366).

[83] Subsec. (e) was added by sec. 307(3) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3147).

[84] Sec. 309(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 190), substituted the words "one year" in lieu of "thirty days".

(f)[85] For each of the fiscal years 1986 through 1989[85] funds in an amount not less than thirteen and one-half percent of the aggregate amount appropriated for that fiscal year to carry out sections 103(a), 104(b), 104(c), 105, 106, 121, and 491 of this Act shall be made available for the activities of private and voluntary organizations, and the President shall seek to channel funds in an amount not less than sixteen percent of such aggregate amount for the activities of private and voluntary organizations. Funds made available under chapter 4 of part II of this Act for the activities of private and voluntary organizations may be considered in determining compliance with the requirements of this subsection.[85]

(g)[85] After December 31, 1984, funds made available to carry out section 103(a), 104(b), 104(c), 105, 106, 121, or 491 of this Act may not be made available for programs of any United States private and voluntary organization which does not obtain at least 20 percent of its total annual financial support for its international activities from sources other than the United States Government, except that this restriction does not apply with respect to programs which, as of that date, are receiving financial support from the agency primarily responsible for administering this part. The Administrator of the agency primarily responsible for administering this part may, on a case-by-case basis, waive the restriction established by this subsection, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency primarily responsible for administering this part.

(h)[85] The Congress recognizes that, in addition to their role in social and economic development, cooperatives provide an opportunity for people to participate directly in democratic decisionmaking. Therefore, assistance under this chapter shall be provided to rural and urban cooperatives which offer large numbers of low- and middle-income people in developing countries an opportunity to participate directly in democratic decisionmaking. Such assistance shall be designed to encourage the adoption of self-help, private sector cooperative techniques and practices which have been successful in the United States.

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[85] Subsecs. (f) and (g) were added by sec. 309 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1535).

Sec. 309(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 190), amended sec. 123(f) by striking out "1982, 1983 and 1984" and substituting "1986 through 1989"; by striking out "twelve" and by inserting in lieu thereof "thirteen and one half", and by adding the current last sentence. Subsec. (h) was added by sec. 310 of Public Law 99-83 (99 Stat. 190).

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) provided the following:

"PRIVATE AND VOLUNTARY ORGANIZATIONS

"None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the 'Foreign Assistance and Related Programs Appropriations Act, 1985' (as enacted in Public Law 98-473) shall be superseded by the provisions of this section."

Sec. 124.[86] **Relatively Least Developed Countries.**—(a) Relatively least developed countries (as determined on the basis of criteria comparable to those used for the United Nations General Assembly list of "least developed countries") are characterized by extreme poverty, very limited infrastructure, and limited administrative capacity to implement basic human needs growth strategies. In such countries special measures may be necessary to insure the full effectiveness of assistance furnished under this part.

(b) For the purpose of promoting economic growth in these countries, the President is authorized and encouraged to make assistance under this chapter available on a grant basis to the maximum extent that is consistent with the attainment of United States development objectives.

(c)[87] (1) The Congress recognizes that the relatively least developed countries have virtually no access to private international capital markets. Insofar as possible, prior assistance terms should be consistent with present grant assistance terms for relatively least developed countries. Therefore, notwithstanding section 620(r) of this Act and section 321 of the International Development and Food Assistance Act of 1975 but subject to paragraph (2) of this subsection, the President on a case-by-case basis, taking into account the needs of the country for financial resources and the commitment of the country to the development objectives set forth in sections 101 and 102—

> (A) may permit a relatively least developed country to place amounts, which would otherwise be paid to the United States as payments on principal or interest on liability incurred by that country under this part (or any predecessor legislation) into local currency accounts (in equivalent amounts of local currencies as determined by the official exchange rate for United States dollars) for use by the relatively least developed country, with the concurrence of the Administrator of the agency primarily responsible for administering this part, for activities which are consistent with section 102; and
>
> (B) may waive interest payments on liability incurred by a relatively least developed country under this part (or any predecessor legislation) if the President determines that that country would be unable to use for development purposes the equivalent amounts of local currencies which could be made available under subparagraph (A).

(2) The aggregate amount of interest waived and interest and principal paid into local currency accounts under this subsection in any fiscal year may not exceed the amount approved for such purpose in an Act appropriating funds to carry out this chapter for that fiscal year, which amount may not exceed the amount authorized to be so approved by the annual authorizing legislation for development assistance programs. Amounts due and payable during

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[86] 22 U.S.C. 2151v. Sec. 124 was added by sec. 112(a)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 948).

[87] Sec. 112(a)(2) of the International Development and Food Assistance Act of 1978 (92 Stat. 949) stated that the authority granted by subsec. (c) shall not become effective until Oct. 1, 1979.

fiscal year 1981 to the United States from relatively least developed countries on loans made under this part (or any predecessor legislation) are authorized to be approved for use, in accordance with the provisions of paragraph (1) of this subsection, in an amount not to exceed $10,845,000.[88]

(3) In exercising the authority granted by this subsection, the President should act in concert with other creditor countries.

(d) The President may on a case-by-case basis waive the requirement of section 110(a) for financial or "in kind" contributions in the case of programs, projects, or activities in relatively least developed countries.

(e) Section 110(b) shall not apply with respect to grants to relatively least developed countries.

Sec. 125.[89] Project and Program Evaluation.—(a) The Administrator of the agency primarily responsible for administering this part is directed to improve the assessment and evaluation of the programs and projects carried out by that agency under this chapter. The Administrator shall consult with the appropriate committees of the Congress in establishing standards for such evaluations.

(b) [90] * * * [Repealed—1981]

Sec. 126.[91] Development and Illicit Narcotics Production.—(a) The Congress recognizes that illicit narcotics cultivation is related to overall development problems and that the vast majority of all individuals employed in the cultivation of illicit narcotics reside in the developing countries and are among the poorest of the poor in those countries and that therefore the ultimate success of any effort to eliminate illicit narcotics production depends upon the availability of alternative economic opportunities for those individuals, upon other factors which assistance under this chapter could address, as well as upon direct narcotics control efforts.

(b)(1) [92] In planning programs of assistance under this chapter and under chapter 4 of part II [92] for countries in which there is illicit narcotics cultivation, the agency primarily responsible for administering this part should give priority consideration to programs which would help reduce illicit narcotics cultivation by stimulating broader development opportunities.

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[88] This sentence was added by sec. 109 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 363). The authorization figure for fiscal year 1981 was substituted in lieu of the fiscal year 1980 authorization ($18,800,000) by sec. 308 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3147).

[89] 22 U.S.C. 2151w. Sec. 125 was added by sec. 113 of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 950). The responsibility of the Administrator mentioned in this section was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[90] Subsec. (b), which required the President to report to Congress on improvements to the evaluation of projects and programs conducted by the international financial institutions and the United Nations Development Program, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). Such report was submitted on Mar. 26, 1979.

[91] 22 U.S.C. 2151x. Sec. 126 was added by sec. 110 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 363).

[92] Sec. 603 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 190), amended subsec. (b) by inserting the words: "and under chapter 4 of Part II" and by inserting the paragraph designation "(1)", and by adding a new paragraph (2).

(2)[92] The agency primarily responsible for administering this part may utilize resources for activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

(c) In furtherance of the purposes of this section, the agency primarily responsible for administering this part shall cooperate fully with, and share its expertise in development matters with, other agencies of the United States Government involved in narcotics control activities abroad.

Sec. 127.[93] **Accelerated Loan Repayments.**—The Administrator of the agency primarily responsible for administering this part shall conduct an annual review of bilateral concessional loan balances and shall determine and identify those countries whose financial resources make possible accelerated loan repayments. In particular, European countries that were recipients of concessional loans by predecessor agencies to the agency primarily responsible for administering this part shall be contacted to negotiate accelerated repayments. The criteria used by the Administrator in making these determinations shall be established in conjunction with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

Sec. 128.[94] **Targeted Assistance.**—(a) The President shall use poverty measurement standards, such as those developed by the International Bank for Reconstruction and Development, and other appropriate measurements in determining target populations for United States development assistance, and shall strengthen United States efforts to assure that a substantial percentage of development assistance under this chapter directly improves the lives of the poor majority, with special emphasis on those individuals living in absolute poverty.

(b) To the maximum extent possible, activities under this chapter that attempt to increase the institutional capabilities of private organizations or governments, or that attempt to stimulate scientific and technological research, shall be designed and monitored to ensure that the ultimate beneficiaries of these activities are the poor majority.

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[93] 22 U.S.C. 2151y. Sec. 127 was added by sec. 508(a) of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 379). Subsec. (b) of sec. 508 called on the administration to describe the efforts made to negotiate accelerated loan repayments in accordance with sec. 127 within the annual reports on foreign assistance submitted to Congress in 1980 and 1981 pursuant to sec. 634 of this Act.

[94] 22 U.S.C. 2151z. Sec. 128 was added by sec. 101(b)(2) of Public Law 97-377, 96 Stat. 1832. Sec. 121(b)(2) of such Act also required a report to Congress within six months from the Administrator of AID on the implementation of this provision, the types of projects determined to meet these requirements, and the effect on the overall U.S. foreign assistance program.

Sec. 312(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 190) amended sec. 128 by replacing its previous text into new paragraphs "(a)" and "(b)." Previously sec. 128 read as follows:

"Sec. 128. Targeting Assistance for Those Living in Absolute Poverty.—In carrying out this chapter, the President in fiscal year 1983, shall attempt to use not less than 40 per centum of the funds made available to carry out this chapter to finance productive facilities, goods, and services which will expeditiously and directly benefit those living in absolute poverty (as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association). Such facilities, goods, and services may include, for example, irrigation facilities, extension services, credit for small farmers, roads, safe drinking water supplies, and health services. Such facilities, goods, and services may not include studies, reports, technical advice, consulting services, or any other items unless (A) they are used primarily by those living in absolute poverty themselves, or (B) they constitute research which produces or aims to produce techniques, seeds, or other items to be primarily used by those living in absolute poverty. Research shall not constitute the major part of such facilities, goods, and services."

Sec. 312(b) of Public Law 99-83, 99 Stat. 190, requires that annual reports to Congress under sec. 634(a)(1) include an evaluation of the extent to which programs under chapter 1 part I directly benefit the poor majority.

Chapter 2—Other Programs [95]

Sec. 201.[96] **General Authority.**—* * * [Repealed—1978]

Sec. 202.[96] **Authorization.**—* * * [Repealed—1978]

Sec. 203.[96] **Fiscal Provisions.**—* * * [Repealed—1978]

Sec. 204.[96] **Development Loan Committee.**—* * * [Repealed—1978]

Sec. 205.[97] **Relating to Transfers to International Financial Institutions.**—* * * [Repealed—1972]

Title I—Multilateral and Regional Development Programs [98]

Sec. 206.[99] **Regional Development in Africa.**—The President is requested to seek and to take appropriate action, in cooperation and consultation with African and other interested nations and with international development organizations, to further and assist in the advancement of African regional development institutions, including the African Development Bank, with the view toward promoting African economic development.

Sec. 207. [97] **Purposes of Development Assistance.**—* * * [Repealed—1978]

Sec. 208. [97] **Self-Help Criteria.**—* * * [Repealed—1978]

Sec. 209. [100] **Multilateral and Regional Programs.**—(a) The Congress recognizes that the planning and administration of development assistance by, or under the sponsorship of the United Nations, multilateral lending institutions, and other multilateral organizations may contribute to the efficiency and effectiveness of that assistance through participation of other donors in the development effort, improved coordination of policies and programs, pooling of knowledge, avoidance of duplication of facilities and manpower, and greater encouragement of self-help performance.

(b) [101] It is further the sense of the Congress (1) that where problems or opportunities are common to two or more countries in a region, in such fields as agriculture, education, transportation, communications, power, watershed development, disease control, and establishment of development banks, these countries often can more effectively resolve such problems and exploit such opportunities by joining together in regional organizations or working together on regional programs, (2) that assistance often can be utilized more efficiently in regional programs than in separate country programs, and (3) that to the maximum extent practicable consistent with the purposes of this Act assistance under this Act should be furnished so as to encourage less developed countries to cooperate with each other in regional development programs.

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[95] The chapter heading "Other Programs" was substituted in lieu of "Development Assistance" by sec. 102(g)(1)(B) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 942).

[96] Secs. 201, 202, 203, 204, 207, and 208 were repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 942). The text of sec. 204 was subsequently reinserted as subsec. (e) of sec. 122 of this Act.

[97] Sec. 205 was repealed by sec. 101(d) of the FA Act of 1971 (Public Law 92–226, 86 Stat. 21).

[98] Sec. 102(g)(1)(C) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 942) added this new title heading.

[99] 22 U.S.C. 2166. Sec. 206 was added by sec. 102(b) of the FA Act of 1965.

[100] 22 U.S.C. 2169. Sec. 209 was added by sec. 102(e) of the FA Act of 1967. Sec. 101(c)(1) of the FA Act of 1971 (Public Law 92–226, 86 Stat. 21) amended subsection (a), which formerly read as follows:

"(a) Multilateral Programs.—The Congress recognizes that planning and administration of development assistance by, or under the sponsorship of, multilateral lending institutions and other international organizations may, in some instances, contribute to the efficiency and effectiveness of that assistance through participation of other donors in the development effort, improved coordination of policies and programs, pooling of knowledge, avoidance of duplication of facilities and manpower, and greater encouragement of self-help performance."

[101] The words "Regional Programs.—-," which appeared at this point, were struck out by sec. 101(c)(3) of the FA Act of 1971 (Public Law 92–226, 86 Stat. 21).

(c) [102] It is the sense of the Congress that the President should increase, to the extent practicable, the funds provided by the United States to multilateral lending institutions and multilateral organizations in which the United States participates for use by such institutions and organizations in making loans to foreign countries.

(d) [103] In furtherance of the provisions of subsection (a) of this section, any funds appropriated under this part I may be transferred by the President to the International Development Association, the International Bank for Reconstruction and Development, the International Finance Corporation, the Asian Development Bank or other multilateral lending institutions and multilateral organizations in which the United States participates for the purpose of providing funds to enable any such institution or organization to make loans to foreign countries.

Sec. 211.[104] General Authority.—* * * [Repealed—1978]

Sec. 212.[104] Authorization.—* * * [Repealed—1978]

Sec. 213.[105] Atoms for Peace.—* * * [Repealed—1962]

Title II—American Schools and Hospitals Abroad; Prototype Desalting Plant [106]

Sec. 214.[107] American Schools and Hospitals Abroad.—(a) The President is authorized to furnish [108] assistance, on such terms and conditions as he may specify, to schools and libraries outside the United States founded or sponsored by United States citizens and serving as study and demonstration centers for ideas and practices of the United States.

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[102] Subsec. (c), which was added by sec. 101(c)(2) of the FA Act of 1971 (Public Law 92-226, 86 Stat. 21), was amended by sec. 311 of Public Law 94-161 (89 Stat. 849). It formerly read as follows: "Notwithstanding any other provision of law, the President should reduce the amounts and numbers of loans made by the United States directly to individual foreign countries with the objective of reducing the total amount of bilateral loans made under this Act so that, by not later than June 30, 1975, such total amount shall not exceed $100,000,000."

[103] Subsec. (d) was added by sec. 101(c)(2) of the FA Act of 1971. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) provided:

"Sec. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961."

[104] Secs. 211, 212, 215, 216, 217, 218, 220, and 220A were repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 942).

[105] Sec. 213 was repealed by sec. 103(c) of the FA Act of 1962 (76 Stat. 256).

[106] This new title heading was added by sec. 102(g)(1)(D) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 942).

[107] 22 U.S.C. 2174.

[108] Sec. 103(b)(1) of the FA Act of 1963 substituted the word "furnish" for the words "use, in addition to other funds available for such purposes, funds made available for the purposes of sec. 211 for".

(b) The President is authorized,[109] notwithstanding the provisions of the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.)[110] to furnish[111] assistance, on such terms and conditions as he may specify, to institutions referred to in subsection (a) of this section, and to hospital centers for medical education and research outside the United States, founded or sponsored by United States citizens.[112]

(c)[113] (1) To carry out the purposes of this section, there are authorized to be appropriated to the President $35,000,000 for fiscal year 1986 and $35,000,000 for fiscal year 1987.

(2) Amounts appropriated under paragraph (1) are authorized to remain available until expended.[114]

(d)[115] Notwithstanding the provisions of subsection (b), funds appropriated under this section may be used for assistance to centers for pediatric plastic and reconstructive surgery established by Children's Medical Relief International, except that assistance may not be furnished for the domestic operations of any such center located in the United States, its territories or possessions.

Sec. 215.[104] **Loans to Small Farmers.**—* * * [Repealed—1978]

Sec. 216.[104] **Voluntary Agencies.**—* * * [Repealed—1978]

Sec. 217.[104] **Used Equipment.**—* * * [Repealed—1978]

Sec. 218.[104] **Fish and Other Protein Concentrates.**—* * * [Repealed—1978]

Sec. 219.[116] **Prototype Desalting Plant.**—(a) In furtherance of purposes of this part and for the purpose of improving existing, and developing and advancing new technology and experience in the design, construction, and operation of large-scale desalting plants of advanced concepts which will contribute materially to low-cost desalination in all countries, including the United States, the President, if he determines it to be feasible, is authorized to participate in the development of a large-scale water treatment and desalting prototype plant and necessary appurtenances to be constructed in

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[109] Sec. 103(b)(2) of the FA Act of 1963 struck out the words "to use" which appeared at this point.

[110] Superseded by the Export Administration Act of 1979.

[111] Sec. 103(b)(2) of the FA Act of 1963 substituted the words "to furnish" for the words "foreign currencies accruing to the United States Government under any Act, for purposes of subsection (2) of this section, and for".

[112] Sec. 103(c)(1) of the FA Act of 1966 substituted the words to this point, beginning with "to institutions referred to" in lieu of "to hospitals outside the United States founded or sponsored by United States citizens and serving as centers for medical education and research".

[113] 22 U.S.C. 2174. Sec. 4(2) of the FA Act of 1973 amended and restated subsec. (c).

[114] The authorization figures for fiscal years 1986 and 1987 were added by sec. 401 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 190). Authorizations under sec. 214 for recent years included the following: fiscal year 1975—$19,000,000; fiscal year 1976—$25,000,000; fiscal year 1977—$25,000,000; fiscal year 1978—$25,000,000; fiscal year 1979—$25,000,000; fiscal year 1980—$25,000,000; fiscal year 1981—$30,000,000; fiscal year 1982—$20,000,000; fiscal year 1983—$20,000,000; fiscal year 1984—$30,000,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "American Schools and Hospitals Abroad":

"For necessary expenses to carry out the provisions of section 214, $35,000,000."

[115] Sec. 114(2) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 950) repealed subsecs. (d) and (e) (which had been added by the FA Act of 1973), and redesignated subsec. (f) (which had been added by Public Law 95-88, 91 Stat. 539) as subsec. (d).

[116] 22 U.S.C. 2179. Sec. 219 was added by sec. 104 of the FA Act of 1969 (Public Law 91-175, 83 Stat. 806).

Israel as an integral part of a dual-purpose power generating and desalting project. Such participation shall include financial, technical, and such other assistance as the President deems appropriate to provide for the study, design, construction, and, for a limited demonstration period of not to exceed five years, operation and maintenance of the water treatment and desalting facilities of the dual-purpose project.

(b) Any agreement entered into under subsection (a) of this section shall include such terms and conditions as the President deems appropriate to insure, among other things, that all information, products, uses, processes, patents, and other developments obtained or utilized in the development of this prototype plant will be available without further cost to the United States for the use and benefit of the United States throughout the world, and to insure that the United States, its officers and employees have a permanent right to review data and have access to such plant for the purpose of observing its operations and improving science and technology in the field of desalination.

(c) In carrying out the provisions of this section, the President may enter into contracts with public or private agencies and with any person without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529 and 41 U.S.C. 5).

(d) Nothing in this section shall be construed as intending to deprive the owner of any background patent or any right which such owner may have under that patent.

(e) In carrying out the provisions of this section, the President may utilize the personnel, services, and facilities of any Federal agency.

(f) The United States costs, other than its administrative costs, for the study, design, construction, and operation of a prototype plant under this section shall not exceed either 50 per centum of the total capital costs of the facilities associated with the production of water, and 50 per centum of the operation and maintenance costs for the demonstration period, or $20,000,000, whichever is less. There are authorized to be appropriated, subject to the limitations of this subsection, such sums as may be necessary to carry out the provisions of this section, including administrative costs thereof. Such sums are authorized to remain available until expended.

(g) No funds appropriated for the Office of Saline Water pursuant to the appropriation authorized by the Act of July 11, 1969 (83 Stat. 45, Public Law 91-43), or prior authorization Acts, shall be used to carry out the purposes of this section.

Sec. 220.[104] **Programs for Peaceful Communication.**—* * * [Repealed—1978]

Sec. 220A.[104] **Suez Canal.**—* * * [Repealed—1978]

Title III—Housing and Other Credit Guaranty Programs [117]

Sec. 221.[118] **Housing Guaranties.**—The Congress recognizes that shelter, including essential urban development services, is [119] among the most fundamental of human needs. Shelter for most people in the developing countries consists largely of domestic materials assembled by local labor. While recognizing that most financing for such shelter [120] must come from domestic resources, the Congress finds that carefully designed programs involving United States capital and expertise can increase the availability of domestic financing for improved shelter [120] and related services for low-income people by demonstrating to local entrepreneurs and institutions that providing low-cost shelter [120] can be financially viable. The Congress reaffirms, therefore, that the United States should continue to assist developing countries in marshalling resources for low-cost shelter [120]. Particular attention should be given to programs which will support pilot projects for low-cost shelter or which will have a maximum demonstration impact on local institutions and national policy. The Congress declares that the long run goal of all such programs should be to develop domestic construction capabilities and to stimulate local credit institutions to make available domestic capital and other management and technological resources required for effective low-cost shelter programs and policies.

Sec. 222.[121] **Authorization.**—(a) To carry out the policy of section 221, the President is authorized to issue guaranties to eligible investors (as defined in section 238(c)) assuring against losses incurred in connection with loans made for projects meeting the criteria set forth in section 221. The total principal amount of guaranties issued under this title or heretofore issued under prior housing guaranty authorities, which are outstanding at any one time, shall not exceed $2,158,000,000.[122] The authority of this section shall

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[117] Title III was added by sec. 105 of the FA Act of 1969. Sec. 8(a)(1) of the FA Act of 1974 substituted the title heading "Housing and Other Credit Guaranty Programs" in lieu of "Housing Guaranties".

[118] 22 U.S.C. 2181. Sec. 221, which was added by the FA Act of 1969, was amended and restated by sec. 115(a) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 950).

[119] The words "including essential urban development services, is" were substituted in lieu of the words "requirements are" by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473, 98 Stat. 1903). This amendment had been included as sec. 311(a)(1) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119.

[120] The word "shelter" was substituted in lieu of the word "housing" by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473, 98 Stat. 1903). This amendment had been included as sec. 311(a)(2) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119.

[121] 22 U.S.C. 2182. Sec. 222, which was added by the FA Act of 1969 and had concerned housing projects in Latin American countries, was amended and restated by sec. 115(a) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 950).

Sec. 313(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat 190) added subsec. (k). This subsection should probably be labeled "(d)" instead of "(k)".

[122] This figure was increased from $1,958,000,000 by sec. 313(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 190). This figure was previously increased from $1,718,000,000 by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473, 98 Stat. 1903). This amendment had been included as sec. 311(b)(1) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec.

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continue through September 30, 1990.[123] The President may issue regulations from time to time with regard to the terms and conditions upon which such guaranties shall be issued and the eligibility of lenders.

(b) Activities carried out under this section shall emphasize—

(1) projects which provide improved home sites to poor families on which to build shelter, and related services;

(2) projects comprised of expandable core shelter units on serviced sites;

(3) slum upgrading projects designed to conserve and improve existing shelter;

(4) shelter projects for low income people designed for demonstration or institution building purposes; and

(5) community facilities and services in support of projects authorized under this section to improve the shelter occupied by the poor.

(c) In issuing guaranties under this section with respect to projects in a country which require the use or conservation of energy, the President shall give consideration to the use of solar energy technologies, where such technologies are economically and technically feasible. Technologies which may be used include solar hot water systems, solar heating and cooling, passive solar heating, biomass conversion, photovoltaic and wind applications, and community-scale solar thermal applications.

(k) [121] The total principal amount of guaranties issued under this section for each of the fiscal years 1986 and 1987 shall be comparable to the total principal amount of such guaranties issued for fiscal year 1984, subject to the dollar limitations on the issuance of guaranties under this section which are contained in subsection (a) and in appropriation Acts.

Sec. 222A.[124] **Agricultural and Productive Credit and Self-Help Community Development Programs.**—(a) It is the sense of the Congress that in order to stimulate the participation of the private

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541(a) enacted sec. 311 of H.R. 5119. Previously, the amount was raised from $1,555,000,000 to $1,718,000,000 by sec. 310(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1535) and from $1,180,000,000 to $1,155,000,000 by sec. 112(a)(1) of Public Law 96-53 (93 Stat. 363).

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "Housing and Other Credit Guaranty Programs":

"During the fiscal year 1989, total commitments to guarantee loans shall not exceed $125,000,000 of contingent liability for loan principal: *Provided,* That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees * * *."

[123] The authority of this section was extended from Sept. 30, 1988 by title II of the Foreign Operations, Export Financing, and Related Programs Appropriation Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329). It was extended from Sept. 30, 1986, by sec. 313(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 190).

The authority of this section was previously extended from Sept. 30, 1984, by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985 as contained in the Continuing Appropriations Act, 1985 (Public Law 98-473, 98 Stat. 1903). This amendment had been included as sec. 311(b)(2) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119. This authority had been extended previously from Sept. 30, 1982, by sec. 310(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1535) from Sept. 30, 1980, by sec. 112(a)(2) of Public Law 96-53 (93 Stat. 364).

[124] 22 U.S.C. 2182a. Sec. 222A was added by sec. 8(a)(2) of the FA Act of 1974.

sector in the economic development of less-developed countries,[125] the authority conferred by this section should be used to establish pilot programs[126] to encourage private banks, credit institutions, similar private lending organizations, cooperatives, and private nonprofit development organizations to make loans on reasonable terms to organized groups and individuals residing in a community for the purpose of enabling such groups and individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. Agricultural credit and assistance for self-help community development projects should include, but not be limited to, material and such projects as wells, pumps, farm machinery, improved seed, fertilizer, pesticides, vocational training, food industry development, nutrition projects, improved breeding stock for farm animals, sanitation facilities, and looms and other handicraft aids.

(b) To carry out the purposes of subsection (a), the agency primarily responsible for administering part I is authorized to issue guaranties, on such terms and conditions as it shall determine, to private lending institutions, cooperatives, and private nonprofit development organizations[127] assuring against loss of not to exceed 50 per centum of the portfolio of such loans made by any lender to organized groups or individuals residing in a community to enable such groups or individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. In no event shall the liability of the United States exceed 75 per centum of any one loan.

(c) The total face amount of guaranties issued under this section outstanding at any one time shall not exceed $20,000,000.[128] Not more than 10 per centum of such sum shall be provided for any one institution, cooperative, or organization.

(d) The Inter-American Foundation shall be consulted in developing criteria for making loans eligible for guaranty coverage in Latin America under this section.

(e) Not to exceed $3,000,000 of the guaranty reserve established under section 223(b) shall be available to make such payments as may be necessary to discharge liabilities under guaranties issued under this section or any guaranties previously issued under section 240 of this Act.

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[125] The words "in not more than six Latin American countries" and the words "in Latin America" were deleted by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473, 98 Stat. 1903). This amendment had been included as sec. 312(a)(1) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 312 of H.R. 5119.

[126] Previously such programs were limited to not more than six Latin American countries (Public Law 99–53, 99 Stat. 364).

[127] The words "in not more than five Latin American countries", that previously appeared at this point, were struck out by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473, 98 Stat. 1903). This amendment had been included as sec. 312(a)(2) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 312 of H.R. 5119.

[128] This figure was increased from $15,000,000 by sec. 112(b)(2) of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 364).

(f) Funds held by the Overseas Private Investment Corporation pursuant to section 236 may be available for meeting necessary administrative and operating expenses for carrying out the provisions of this section through June 30, 1976.

(g) The Overseas Private Investment Corporation shall, upon enactment of this subsection, transfer to the agency primarily responsible for administering part I all obligations, assets, and related rights and responsibilities arising out of, or related to the predecessor program provided for in section 240 of this Act.

(h) [129] The authority of this section shall continue through September 30, 1988.[130]

(i) Notwithstanding the limitations in subsection (c) of this section, foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the United States may be utilized to carry out the purposes of this section, including the discharge of liabilities under this subsection. The authority conferred by this subsection shall be in addition to authority conferred by any other provision of law to implement guaranty programs utilizing excess local currency.[131]

Sec. 223.[132] General Provisions.—(a) A fee shall be charged for each guaranty issued under section 222 or 222A [133] in an amount to be determined by the President. In the event the fee to be charged for such type guaranty is reduced, fees to be paid under existing contracts for the same type of guaranty may be similarly reduced.

(b) The amount of $50,000,000 of fees accumulated under prior investment guaranty provisions repealed by the Foreign Assistance Act of 1969, together with all fees collected in connection with guaranties issued under section [133] 222 or under prior housing guaranty authorities, [134] shall be available for meeting necessary administrative and operating expenses of carrying out the provisions of section 222 and administering housing guaranties heretofore authorized under this title and under [135] prior housing guaranty provisions repealed by the Foreign Assistance Act of 1969 (including, but not limited to expenses pertaining to personnel, supplies, and printing), subject to such limitations as may be imposed in annual appropriation Acts; for meeting management and custodial costs incurred with respect to currencies or other assets acquired under guaranties made pursuant to section 222 [133] or heretofore pursuant to this title or [136] prior Latin American and other housing guaranty authorities repealed by the Foreign Assistance Act of 1969; and to pay the cost of investigating and adjusting (including cost of arbitration) claims under such guaranties; and shall be available for expenditure in discharge of liabilities under such guaranties until such time as all such property has been disposed of and all such liabilities have been discharged or have expired, or until all such fees have been expended in accordance with the provisions of this subsection. Fees collected in connection with guaranties issued under section 222A [137] shall likewise be available to meet similar expenses, costs, or liabilities incurred in connection with the programs authorized by that section.[138] All of the foregoing fees referred to in this section together with earnings thereon and other income arising from guaranty operations under this title shall be held in a revolving fund account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes cited in this section.[139]

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[129] 22 U.S.C. 2184.

[130] This authority was extended from Sept. 30, 1986, to Sept. 30, 1988, by sec. 313 (d) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 190). This authority was previously extended from Sept. 30, 1983 to Sept. 30, 1986, by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985 (Public Law 98–473). This amendment had been included as sec. 312(b) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 312 of H.R. 5119. Such authority had previously been extended from Dec. 31, 1977 to Sept. 30, 1978, by Public Law 95–88 (91 Stat. 540), from Sept. 30, 1978 to Sept. 30, 1979, by Public Law 95–424 (92 Stat. 951), from Sept. 30, 1979 to Sept. 30, 1982, by Public Law 96–53 (93 Stat. 364), and from Sept. 30, 1982 to Sept. 30, 1983, by Public Law 97–438 (96 Stat. 2286).

[131] Subsec. (j), which previously appeared at this point and concerned a one-time reporting requirement, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 959).

[132] 22 U.S.C. 2183. Sec. 223 was added by sec. 105 of the FA Act of 1969.

[133] Sec. 8(a)(3) of the FA Act of 1974 substituted "section 221, 222, or 222A" in lieu of "section 221 or section 222". Subsequently, the reference to sec. 221 was struck by sec. 115 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 951).

[134] Sec. 117(b)(2)(A) of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 540) struck out the word "hereunder" and inserted the words "under section 221 or 222 or under prior housing guaranty authorities". See also footnote 135.

[135] The words to this point beginning with "222 and administering * * *" were substituted in lieu of "221 and section 222 of" by sec. 115(d)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 951).

(c) Any payments made to discharge liabilities under guaranties issued under this title or [140] section 222 or heretofore under prior Latin American or other housing guaranty authorities repealed by the Foreign Assistance Act of 1969, shall be paid first out of fees referred to in subsection (b) (excluding amounts required for purposes other than the discharge of liabilities under guaranties) as long as such fees are available, and thereafter shall be paid out of funds, if any, realized from the sale of currencies or other assets acquired in connection with any payment made to discharge liabilities under such guaranties as long as funds are available, and finally out of funds hereafter made available pursuant to subsection (e).

(d) All guaranties issued under section 222 or 222A or previously under section 240 of this Act [141] or heretofore under this title or [142] under prior Latin American or other housing guaranty authority repealed by the Foreign Assistance Act of 1969 shall constitute obligations, in accordance with the terms of such guaranties of the United States of America and the full faith and credit of the

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[136] The words "this title or" were added by sec. 115(d)(4) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 951).

[137] See page 67 for text.

[138] This sentence was added by sec. 117(b)(2) of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 540).

[139] The final three sentences of subsec. (b) were added by sec. 310(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1535).

[140] The words "under this title or" were substituted in lieu of "section 221 or" by sec. 115(e) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 951).

[141] Sec. 8(a)(5) of the FA Act of 1974 substituted "section 221, 222, 222A, or previously under section 240 of this Act" in lieu of "section 221 or section 222." Subsequently, sec. 115(f) of Public Law 95–424 struck out the reference to sec. 221.

[142] The words "under this title or" were added by sec. 115(f)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 951).

United States of America is hereby pledged for the full payment and performance of such obligations.

(e)(1) [143] There is hereby authorized to be appropriated to the President such amounts, to remain available until expended, as may be necessary from time to time to carry out the purposes of this title.

(2) [143] (A) In order to meet obligations incurred for the payment of claims pursuant to loan guaranties described in subsection (d), the Administrator of the agency primarily responsible for administering part I may, to the extent that reserves are not sufficient, borrow from time to time from the Treasury except that—

(i) the Administrator may exercise the authority to borrow under this paragraph only to such extent or in such amounts as are provided in advance in appropriation Acts; and

(ii) the amount borrowed under this paragraph which is outstanding at any one time may not exceed $100,000,000.[144]

(B) Any such borrowing shall bear interest at a rate determined by the Secretary of the Treasury, taking into account the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury shall make loans under this paragraph and for such purpose may borrow on the credit of the United States in accordance with subchapter I of chapter 31 of title 31 of the United States Code.

(f) In the case of any loan investment guaranteed under [133] section 222, the agency primarily responsible for administering part I shall prescribe the maximum rate of interest allowable to the eligible investor, which maximum rate shall not exceed by more than 1 per centum the then current rate of interest applicable to housing mortgages insured by the Department of Housing and Urban Development.[145] The maximum allowable rate of interest under this subsection shall be prescribed by the agency as of the date the project covered by the investment is officially authorized and, prior to the execution of the contract, the agency may amend such rate at its discretion, consistent with the provisions of subsection (f).

(g) Housing guaranties committed, authorized, or outstanding heretofore under this title or [146] under prior housing guaranty authorities repealed by the Foreign Assistance Act of 1969 shall continue subject to provisions of law originally applicable thereto and

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[143] The para. designation "(1)" and a new para. (2) were added by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473, 98 Stat. 1903). This amendment had been included as sec. 311(c) of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 311 of H.R. 5119.

[144] $100,000,000 was substituted in lieu of $40,000,000 by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100–202, 101 Stat. 1329).

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, (Public Law 100–461, 102 Stat. 2268) provided: "That pursuant to sec. 223(e)(2) borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1989."

[145] Language which specified that the maximum rate of interest should not be less than one-half of 1 per centum above the then current rate of interest applicable to housing mortgages insured by HUD, was struck out by sec. 112(c) of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 364).

[146] The words "heretofore under this title or" were added by sec. 115(h) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 951).

fees collected hereafter with respect to such guaranties shall be available for the purposes specified in subsection (b).

(h) No payment may be made under any guaranty issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(i) [147] * * * [Repealed—1978]

(j) [148] Guaranties shall be issued under section 222 [133] only for housing projects which are coordinated with and complementary to any development assistance being furnished under chapter 1 of this part and which [149] are specifically designed to demonstrate the feasibility and suitability of particular kinds of housing or of financial or other institutional arrangements. Of the aggregate face value of housing guaranties hereafter issued under this title, not less than 90 per centum shall be issued for housing suitable for families with income below the median income (below the median urban income for housing in urban areas) in the country in which the housing is located. The face value of guaranties issued with respect to housing in any country shall not exceed $25,000,000 in any fiscal year, and the average face value of guaranties issued in any fiscal year shall not exceed $15,000,000. Of the total amount of housing guaranties authorized to be issued under section 222 through September 30, 1982, not less than a face amount of $25,000,000 shall be issued for projects in Israel and not less than a face amount of $25,000,000 shall be issued for projects in Egypt.[150]

Sec. 224.[151] **Trade Credit Insurance Program.**—(a) In order to enable the Export-Import Bank of the United States (hereafter in this section referred to as the "Bank") to determine that there exists reasonable assurance of repayment as required under section 2(b)(1)(B) of the Export-Import Bank Act of 1945, [152] the agency primarily responsible for administering part I of this Act (hereafter in this section referred to as the "Agency") is authorized to provide guarantees to the Bank for liabilities to be incurred by the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 for financing for transactions involving the export of goods and services for the use of the private sector in Central American countries.

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[147] Subsec. (i), which had authorized sections 221 and 222 to continue in force until Sept. 30, 1979, was repealed by sec. 115(i) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 952).

[148] Sec. 311(5)(B) of Public Law 94–161 (89 Stat. 849) added subsection (j).

[149] The words to this point beginning with "are coordinated with and" were substituted by sec. 112(d)(1) of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 364) in lieu of the following: "(1) except for regional projects are in countries which are receiving, or which in the previous two fiscal years have received, development assistance under chapter 1 of part I of this Act, (2) are coordinated with and complementary to such assistance, and (3)".

[150] This sentence was amended and restated by sec. 112(d)(2) of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 364). It formerly read as follows:

"Notwithstanding the provisions of the first sentence of this subsection, the President is authorized to issue housing guaranties until September 30, 1978, as follows: In Israel, not exceeding a face amount of $75,000,000, in Portugal, not exceeding a face amount of $30,000,000, and in Lebanon, not exceeding a face amount of $30,000,000."

[151] 22 U.S.C. 2184. Sec. 224 was added by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985, as contained in the Continuing Appropriations Act, 1985 (Public Law 98–473, 98 Stat. 1903). This amendment had been included as sec. 1011 of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 1011 of H.R. 5119.

[152] For text, see vol. III., sec. I.

(b)(1) Guarantees provided by the Agency pursuant to the authority of subsection (a) shall be for short-term guarantees and insurance extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance. Guarantees or insurance extended by the Bank and guaranteed by the Agency pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Agency and the Bank. Such agreement shall also provide for the establishment of a reserve fund by the Agency, with such funds made available to the reserve as the Agency deems necessary to discharge liabilities under guarantees provided by the Agency pursuant to subsection (a).

(2) The administrator of such agency shall transmit a copy of such agreement to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(c) The Agency shall not enter into any commitments to guarantee under subsection (a) after September 30, 1989.

(d) Of the funds authorized to be appropriated for chapter 4 of part II of this Act, there are authorized to be made available such sums as may be deemed necessary by the Agency to discharge liabilities under guarantees entered into under subsection (a).

(e) Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in appropriations Acts, except that the aggregate amount of outstanding commitments under subsection (a) may not exceed $300,000,000 of contingent liability for loan principal during fiscal year 1986 and may not exceed $400,000,000 of contingent liability for loan principal during fiscal year 1987.[153]

(f) To the extent that any of the funds made available pursuant to subsection (d) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund referred to in subsection (b), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Agency to the Bank for guarantees under subsection (a).

(g) Beginning on a date six months after the date of enactment of this section, and at intervals of six months thereafter, the administrator of the agency primarily responsible for administering part I of this Act and the President of the Export-Import Bank of the United States shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on

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[153] Sec. 314 of the International Security and Development Cooperation Act of 1985 substituted the text following the word "Acts," in lieu of the words "not to exceed $300,000,000 in the fiscal year 1985.".

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) provided the following:

"TRADE CREDIT INSURANCE PROGRAM

"During fiscal year 1989, total commitments to guarantee or insure loans for the 'Trade Credit Insurance Program' shall not exceed $200,000,000 of contingent liability for loan principal."

Foreign Relations of the Senate a report on the amount and extension of credits during the preceding six-month period.

(h) The Export-Import Bank shall provide without reimbursement such administrative and technical assistance to the Agency as the Bank and the Agency deem appropriate to assist the Agency in carrying out this section.

Title IV—Overseas Private Investment Corporation [154]

Sec. 231.[155] **Creation, Purpose and Policy.**—To mobilize and facilitate the participation of United States private capital and skills in the economic and social development [156] of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States, there is hereby created the Overseas Private Investment Corporation (hereinafter called the "Corporation"), which shall be an agency of the United States under the policy guidance of the Secretary of State.

The [157] Corporation, in determining whether to provide insurance, financing, or reinsurance for a project, shall especially—

(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors;

(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of $984 or less in 1986 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of $4,269 or more in 1986 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702)); and [158]

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[154] A new title IV was added by sec. 105 of the FA Act of 1969. Prior to this, title IV had been titled "Surveys of Investment Opportunities." For Executive Order concerning OPIC, see page 766.

Title IV was amended extensively by title I of S. 2757 and title I of H.R. 5263, both enacted by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268):

"Sec. 555. * * *Provided further, That title I of H.R. 5263 as passed by the House of Representatives on September 20, 1988, is hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of H.R. 5263 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further,* That notwithstanding any other provision of this Act, titles I and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988, are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: * * *."

Except in two instances, title I, S. 2757 and title I, H.R. 5263 are identical. Sec. 106 in each title amended sec. 235(a)(2) of the FA Act of 1961. Sec. 235(a)(2) was previously amended by Public Law 100–418, sec. 2203(b)(1)(A); H.R. 5263 took this into account. See page 86. Public Law 100–418, sec. 2203(b)(1)(B) redesignated sec. 235(a)(5) of the FA Act of 1961 as sec. 235(a)(6). Sec. 107 in S. 2757 and H.R. 5263 amended this section, but H.R. 5263 took into account the redesignation by Public Law 100–418. See page 87. Title III of S. 2757, which addresses the implementation of certain USIA Exchange Visitor Programs, is in vol. II, sec. E.

[155] 22 U.S.C. 2191. Sec. 231 was added by sec. 105 of the FA Act of 1969.

[156] Sec. 2(1)(A) of the OPIC Amendments Act of 1974 (Public Law 93–390, 83 Stat. 809) substituted "development" in lieu of "progress".

[157] This paragraph was added by sec. 2(1) of Public Law 95–268 (92 Stat. 213).

[158] The per capita income levels were increased from $896 and $3,887 in 1983 U.S. dollars by sec. 102, of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public

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(3) [159] ensures that the project is consistent with the provisions of section 117 [159] (as so redesignated by the Special Foreign Assistance Act of 1986), section 118, and section 119 of this Act relating to the environment and natural resources of, and tropical forests and endangered species [159] in, developing countries, and consistent with the intent of regulations issued pursuant to sections 118 and 119 of this Act.

In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

(a) [160] to conduct financing, insurance, and reinsurance operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;

(b) to utilize private credit and investment institutions and the Corporation's guaranty authority as the principal means of mobilizing capital investment funds;

(c) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

(d) to conduct its insurance operations with due regard to principles of risk management including [161] efforts to share its insurance risks and reinsurance [162] risks;

(e) [163] to the maximum degree possible consistent with its purposes—

(1) to give preferential consideration in its investment insurance, reinsurance, and guaranty activities to investment projects sponsored by or involving United States small business; and

(2) to increase the proportion of projects sponsored by or significantly involving United States small business to at least 30 percent of all projects insured, reinsured, or guaranteed by the Corporation;

Law 100-461, 102 Stat. 2268). Sec. 102 also added "(other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702))". Previously the per capita income levels were increased from $680 and $2,950 in 1979 U.S. dollars to $896 and $3,887 in 1983 U.S. dollars by sec. 3 of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1669), and from $520 and $1,000 in 1975 U.S. dollars to $680 and $2,950 in 1979 U.S. dollars, respectively, by sec. 2(1) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1021).

[159] Par. (3) was added by sec. 4(a)(1)(C) of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1669). The OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) made a correction to include section 117. S. 2757 also struck out "biological diversity" and inserted in lieu thereof "tropical forests and endangered species".

[160] Subsec. (a) was amended by sec. 2(1)(B) of the OPIC Amendments Act of 1974 (Public Law 93-390, 83 Stat. 809). It formerly read as follows: "(a) to conduct financial soundness of projects and the availability of financing from other sources on appropriate terms;".

[161] Sec. 2(1)(C) of the OPIC Amendments Act of 1974 (Public Law 93-390) struck the words, "when appropriate," which appeared at this point.

[162] Sec. 2(1)(C) of the OPIC Amendments Act of 1974 (Public Law 93-390) added the words "and reinsurance".

[163] Subsec. (e), as amended by Public Law 93-390, was amended and restated by sec. 2(2) of Public Law 95-268 (92 Stat. 213). It formerly read as follows:

"(e) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects involving businesses of not more than $2,500,000 net worth or with not more than $7,500,000 in total assets;".

(f) [164] to consider in the conduct of its operations the extent to which less developed country governments are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

(g) [164] to foster private initiative and competition and discourage monopolistic practices;

(h) [164] to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment [165] objectives of the United States;

(i) [164] to conduct its activities in consonance with the activities of the agency primarily responsible for administering part I and the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States; [166]

(j) [164] to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas;

(k) [167] (1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1);

(l) [168] to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States;

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[164] Sec. 2(5) of Public Law 95-268 (92 Stat. 214) struck subsecs. (f) and (l) and redesignated subsecs. (g) through (n) as (f) through (l), respectively. Subsecs. (f) and (l) formerly read as follows:

"(f) to encourage and support only those private investments in less developed friendly countries and areas which are sensitive and responsive to the special needs and requirements of their economies, and which contribute to the social and economic development of their people;"

"(l) to the maximum extent practicable, to give preferential consideration in the Corporation's investment insurance, financing, and reinsurance activities to investment projects in the less developed friendly countries which have per capita incomes of $450 or less in 1973 United States dollars; and".

[165] Sec. 2(1)(E) of the OPIC Amendments Act of 1974 (Public Law 93-390) added the words "and employment".

[166] The words ", and to seek to support those developmental projects having positive trade benefits for the United States" were added by sec. 2(2) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1021).

[167] This subsection was originally added as subsec. (m) by sec. 2(1)(H) of the OPIC Amendments Act of 1974 (Public Law 93-390). It was redesignated as subsec. (k) by sec. 2(5) of Public Law 95-268, 92 Stat. 214.

[168] This subsection was added as subsec. (n) by sec. 2(4) of Public Law 95-268, 92 Stat. 213, and redesignated as subsec. (l) by sec. 2(5) of the same Act.

(m)[169] to refuse to insure, reinsure, or finance any investment subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment; and

(n)[170] to refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

Sec. 231A.[171] **Additional Requirements.**—(a) WORKER RIGHTS.—

(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4)), to workers in that country (including any designated zone in that country).

(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c)). The restriction set forth in paragraph (1) shall not apply until the first such report is submitted to the Congress.

(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, guaranty, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Congress, together with the reasons for the determination.

(4) In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 502(a)(4) of the Trade Act of 1974.[172]

(b) PUBLIC HEARINGS.—The Board shall hold at least one public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 231 and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, guarantees, or financing under this title.

Sec. 232.[173] **Capital of the Corporation.**—The President is authorized to pay in as capital of the Corporation, out of dollar receipts made available through the appropriation process from loans made pursuant to this part and from loans made under the Mutual Security Act of 1954, as amended, for the fiscal year 1970 not to exceed $20,000,000 and for the fiscal year 1971 not to exceed $20,000,000. Upon the payment of such capital by the President, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

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[169] Subsec. (m) was added by sec. 2(3)(C) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1021).

[170] Sec. 4(a)(4) of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1669 added subsec. (n)).

[171] 22 U.S.C. 2191a. Sec. 231A was added by sec. 5(a) of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1670). Sec. 5(b) of the Act provides that sec. 231A(a) "shall not apply to projects insured, reinsured, guaranteed, or financed before the date of the enactment of this Act."

[172] Sec. 231A(a)(4) was added by sec. 2203(c) of Public Law 100-418 (102 Stat. 1328).

[173] 22 U.S.C. 2192. Sec. 232 was added by sec. 105 of the FA Act of 1969.

Sec. 233.[174] **Organization and Management.**—(a) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

(b) BOARD OF DIRECTORS.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors ("the Board") which shall consist of fifteen Directors, [175] including the Chairman, with eight Directors [176] constituting a quorum for the transaction of business. The Administrator of the Agency for International Development shall be the Chairman of the Board, ex officio.[177] The United States Trade Representative shall be the Vice Chairman of the Board, ex officio, except that the United States Trade Representative may designate the Deputy United States Trade Representative to serve as Vice Chairman of the Board in place of the United States Trade Representative.[178] Eight Directors [176] (other than the President of the Corporation, appointed pursuant to subsection (c) who shall serve as a Director ex officio [179]) shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall not be officials or employees of the Government of the United States. At least two of the eight Directors [180] appointed under the preceding sentence shall be experienced in small business, one in organized labor, and one in cooperatives. Each such Director shall be appointed for a term of no more than three years. The terms of no more than three such Directors [181] shall expire in any one year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed.

The other Directors shall be officials of the Government of the United States, including an official of the Department of Labor, [182] designated by and serving at the pleasure of the President of the United States.

All Directors who are not officers of the Corporation or officials of the Government of the United States shall be compensated at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315)[183] when actually engaged in the business of the Corporation and may be paid per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended, from time to time, while away from their homes or usual places of business.

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[174] 22 U.S.C. 2193. Sec. 233 was added by sec. 105 of the FA Act of 1969.

[175] The number of Directors was increased from 11 to 15 by sec. 3(a)(1) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1021), effective Oct. 1, 1981.

[176] The number of Directors was increased from six to eight by sec. 3(a) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1021), effective Oct. 1, 1981.

[177] This function of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[178] This sentence was added by sec. 3(a)(2) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1021), effective Oct. 1, 1981.

[179] The words "ex officio" were added by sec. 3(a)(5) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1022), effective Oct. 1, 1981.

[180] The number of Directors was increased from one of the six to two of the eight by sec. 3(a) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1022), effective Oct. 1, 1981.

[181] The number of Directors was increased from two to three by sec. 3(a)(3) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1022), effective Oct. 1, 1981.

[182] The reference to an official of the Department of Labor was added by sec. 3(b) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1022), effective Oct. 1, 1981.

(c) President of the Corporation.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

(d) Officers and Staff.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. Other officers, attorneys, employees, and agents shall be selected and appointed by the Corporation, and shall be vested with such powers and duties as the Corporation may determine. Of such persons employed by the Corporation, not to exceed twenty may be appointed, compensated, or removed without regard to the civil service laws and regulations: *Provided,* That under such regulations as the President of the United States may prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those otherwise authorized by law, including those authorized by section 5108 of title 5 of the United States Code.

Sec. 234.[184] Investment Insurance and Other Programs.[185]—The Corporation is hereby authorized to do the following:

(a)[186] Investment Insurance.—(1) To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved—

(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

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[183] The current rate of compensation at level IV of the Executive Schedule is $77,500 per annum (Executive Order 12622, 53 F.R. 226).

[184] 22 U.S.C. 2194. Sec. 234 was added by sec. 105 of the FA Act of 1969.

[185] Sec. 2(2)(A) of the OPIC Amendments Act of 1974 (Public Law 93-390) substituted section caption "Investment Insurance and Other Programs" in lieu of "Investment Incentive Programs".

[186] Sec. 5(b)(2) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1023) provided:

"(2) The authority of the Overseas Private Investment Corporation to enter into contracts under section 234(a) of the Foreign Assistance Act of 1961 shall be effective for any fiscal year beginning after September 30, 1981, only to such extent or in such amounts as are provided in appropriation Acts."

(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government;

(C) loss due to war, revolution, insurrection or civil strife; and[187]

(D)[188] loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

(2)[189] Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.[190]

(3) Not more than 10 per centum of the maximum contingent liability[191] of investment insurance which the Corporation is permitted to have outstanding under section 235(a)(1)[192] shall be issued to a single investor.

(4)[193] Before issuing insurance for the first time for loss due to business interruption, and in each subsequent instance in which a

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[187] The reference to civil strife was added by sec. 4(a)(1) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1022).

[188] Sec. 6(a)(1)(D) of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1671) added subpar. (D)

[189] Subsec. (a)(2) was amended by sec. 2(2)(B) of the OPIC Amendments Act of 1974 (Public Law 93-390). It formerly read as follows: "(2) Recognizing that major private investments in less developed friendly countries in areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make such arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder: *Provided, however,* That liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the total project financing."

[190] The words "total" and "financing", which previously appeared immediately before and after the word "project", were deleted by sec. 4(a)(2) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1022).

Sec. 3(1) of Public Law 95-268 (92 Stat. 214) struck out the following words that previously appeared at this point: "and that the maximum share of liabilities so assumed under paragraph (1) (A) and (B) of paragraph (1)(C) shall not exceed the Corporation's proportional share of such liabilities as specified in paragraph (4) or (5) of this subsection."

[191] The words "maximum contingent liability" were substituted in lieu of "total face amount" by sec. 3(2) of Public Law 95-268 (92 Stat. 214).

[192] The words "permitted to have outstanding under sec. 235(a)(1)" were inserted in lieu of the words "authorized to issue under this subsection" by sec. 4(a)(3) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1022).

[193] Pars. (4) through (7), which had been added by the OPIC Amendments Act of 1974 (Public Law 93-390) and had appeared at this point, were struck by sec. 3(3) of Public Law 95-268, 92 Stat. 214. This new par. (4) was added by sec. 4(a)(4) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1022). Subsequently, sec. 6(a)(2)(A) and (B) of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1671) substituted the words "insurance for the first time

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significant expansion is proposed in the type of risk to be insured under the definition of "civil strife" or "business interruption", the Corporation shall, at least sixty days before such insurance is issued, submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report with respect to such insurance, including a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered. Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.[194]

(b) INVESTMENT GUARANTIES.—To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine: *Provided, however,* That such guaranties on other than loan investments shall not exceed 75 per centum of such investment: *Provided further,* That except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) so guaranteed with respect to any project shall not exceed, at the time of issuance of any such guaranty, 75 per centum of the total investment committed to any such project as determined by the Corporation, which determination shall be conclusive for purposes of the Corporation's authority to issue any such guaranty: *Provided further,* That not more than 15 [195] per centum of the maximum contingent liability of investment guaranties which the Corporation is permitted to have outstanding under section 235(a)(2) [196] shall be issued to a single investor.

(c) DIRECT INVESTMENT.—To make loans in United States dollars repayable in dollars or loans in foreign currencies (including, without regard to section 1415 of the Supplemental Appropriation Act, 1953, such foreign currencies which the Secretary of the Treasury may determine to be excess to the normal requirements of the United States and the Director of the Bureau of the Budget may allocate) to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine.[197] Loans may be made under this subsection only for

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loss due to business interruption" in lieu of "civil strife insurance for the first time" and replaced the words "definition of civil strife" with "definition of 'civil strife' or 'business interruption'".

[194] Sec. 6(a)(2) (C) and (D) of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1671) added the text from the word "reserves" to the end of para. (4).

[195] Sec. 7 of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1672) changed the per centum from 10 to 15.

[196] The words "permitted to have outstanding under section 235(a)(2)" were inserted in lieu of the words "authorized to issue under this subsection" by sec. 4(b) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1022).

[197] Sec. 104 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) struck out the following which previously appeared at this point: "The Corporation may not purchase or invest in any stock in any other corporation, except that it may (1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation, and (2) ac-

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projects that are sponsored by or significantly involve United States small business or cooperatives.[198]

The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of less developed countries.[199]

No loan may be made under this subsection to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed $4,000,000.[200]

(d) INVESTMENT ENCOURAGEMENT.—To initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying and promotion of private investment opportunities, utilizing wherever feasible and effective the facilities of private investors, except that—

(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of nonfuel minerals may not exceed $200,000.[201]

(e) SPECIAL ACTIVITIES.—To administer and manage special projects and programs, including programs of financial and advisory support which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings and intermediate financial and investment institutions and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 632(a) or from other sources, public or private.

(f) [202] OTHER INSURANCE FUNCTIONS.—(1) To make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same where

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quire stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness which would otherwise be in default, or as the result of any payment under any contract of insurance or guaranty. The Corporation shall dispose of any stock it may so acquire as soon as reasonably feasible under the circumstances then pertaining."

[198] This sentence was added by sec. 3(4) of Public Law 95-268, 92 Stat. 214.

[199] This paragraph was added by sec. 103 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268).

[200] Sec. 3(5) of Public Law 95-268, 92 Stat. 214, substituted this paragraph in lieu of the following:

"No loans shall be made under this section to finance operations for mining or other extraction of any deposit of ore, oil, gas, or other mineral."

[201] Sec. 3(6) of Public Law 95-268, 92 Stat. 214, struck out a proviso clause in subsec. (d) and added the words to this point beginning with ", except that—".

[202] Subsec. (f) was added by sec. 2(2)(D) of the OPIC Amendments Act of 1974 (Public Law 93-390).

appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business; except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 231 of this Act and shall be on equitable terms.[203]

(2) To enter into pooling or other risk-sharing agreements with [204] multinational insurance or financing agencies or groups of such agencies.

(3) To hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

(4) To issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a)(1).

The amount of reinsurance of liabilities under this title which the Corporation may issue shall not [205] in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise.[206, 207]

(g) [208] PILOT EQUITY FINANCE PROGRAM.—

(1) AUTHORITY FOR PILOT PROGRAM.—In order to study the feasibility and desirability of a program of equity financing, the Corporation is authorized to establish a 4-year pilot program under which it may, on the limited basis prescribed in paragraphs (2) through (5), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this title except that—

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[203] The words to this point beginning with "; except that such agreements" were added by sec. 3(6) of Public Law 95–268, 92 Stat. 214. Subsequently, sec. 4(b)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65, 95 Stat. 1022) struck out the following text, as added by sec. 3(6) of Public Law 95–268: "and (B) the Corporation shall not make or carry out any association or risk-sharing agreement for the direct underwriting of insurance by the Corporation with others, other than on an individual basis where such direct underwriting facilitates the purposes of the Corporation as set forth in section 231 of this Act."

[204] Sec. 8 of the OPIC Amendments Act of 1985 (Public Law 99–204, 99 Stat. 1672) deleted the words "other national or" which previously appeared at this point.

[205] The words "exceed $600,000,000 in any one year, and the amount of such reinsurance shall not", which previously appeared at this point, were struck out by sec. 4(b)(3)(A) of the OPIC Amendments Act of 1981 (Public Law 97–65, 95 Stat. 1022).

[206] The phrase "and the Corporation shall endeavor to increase such specified portions to the maximum extent possible", which previously appeared at this point, was struck out by sec. 4(b)(3)(B) of the OPIC Amendments Act of 1981 (Public Law 97–65, 95 Stat. 1022).

[207] Sec. 104 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) struck out the first sentence of this paragraph. It formerly read: "The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under subsection (c) against the Corporation purchasing or investing in any stock in any other corporation."

[208] Subsec. (g) was added by sec. 104(3) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268).

(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

(2) LIMITATION TO PROJECTS IN SUB-SAHARAN AFRICA AND CARIBBEAN BASIN.—Equity investments may be made under this subsection only in projects in countries eligible for financing under this title that are countries in sub-Saharan Africa or countries designated as beneficiary countries under section 212 of the Caribbean Basin Economy Recovery Act.[209]

(3) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

(4) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporations' financial interests and the desirability of fostering the development of local capital markets in less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

(5) CREATION OF FUND FROM CORPORATE REVENUES.—The Corporation is authorized to establish a fund to be available solely for the purposes specified in this subsection and to make a one-time transfer to the fund of $10,000,000 from its income and revenues.

(6) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the implementation of the pilot equity finance program established under this subsection.

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[209] Should read "Caribbean Basin Economic Recovery Act"; see vol. III.

Sec. 234A.[210] Enhancing Private Political Risk Insurance Industry.

(a) Cooperative Programs.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this title, the Corporation shall under take programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

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[210] 22 U.S.C. 2194b. Sec. 234A was amended by sec. 105 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268). First added by sec. 9 of the OPIC Amendments Act of 1985 (Public Law 99–204, 99 Stat. 672), it formerly read as follows:

"In order to encourage greater availability of political risk insurance for eligible investors, the Corporation shall establish, not later than one year after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, a pilot program of facultative reinsurance. The program shall provide reinsurance to insurance companies, financial institutions, other persons, or groups thereof, with respect to insurance issued by such companies, institutions, persons, or groups for new investments, and expansions of existing investments, by eligible investors, in excess of limits which the Corporation would otherwise normally apply for its exposure to such investments. Contracts of reinsurance issued under the program shall be on equitable terms. The program, and any project covered by reinsurance under the program, shall be consistent with the provisions of this title.

"(b) Persons Eligible for the Program.—An insurance company, financial institution, or other person shall be eligible to participate in the facultative reinsurance program established under subsection (a) if that company, institution, or other person is an eligible investor under this title. The Corporation shall take steps to encourage equitable participation in the program by all eligible persons.

"(c) Maximum Exposure.—The exposure of the Corporation under the facultative reinsurance program at any one time may not exceed $150,000,000 or, with respect to one country, $50,000,000.

"(d) Advisory Group.—

"(1) Establishment and Membership.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the program of facultative reinsurance under this section. The group shall be composed of nine members as follows:

"(A) Three officers or employees of the Corporation designated by the Board.

"(B) Four persons appointed by the Board, of whom at least one shall represent an insurance company, one a reinsurance brokerage firm, and one an underwriter, a financial institution, or other person or entity eligible for the facultative reinsurance program under this section. In selecting such persons, the Board shall consider their previous active involvement in the field of political risk insurance or reinsurance and shall consult with any major organizations representing insurance, reinsurance, and brokerage institutions as to the suitability of the respective candidates to represent their industry.

"(C) Two persons appointed by the Board from among persons who are eligible investors, other than persons described in subparagraph (B).

"(2) Functions.—The advisory group shall advise the Corporation on the development and implementation of the facultative reinsurance program under this section, including ways to ensure equitable participation in the program by all eligible persons.

"(3) Meetings.—The advisory group shall meet not later than one hundred and eighty days after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, and not less than once in every one hundred and eighty-day period thereafter.

"(4) Federal Advisory Committee Act.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(e) Report to the Congress.—The Corporation shall, not later than eighteen months after the date of the enactment of the Overseas Private Investment Corporation Amendments Act of 1985, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the implementation of the facultative reinsurance program established under subsection (a)."

(3) Notwithstanding section 237(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

(b) ADVISORY GROUP.—

(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

(A) Up to seven persons from the private political risk insurance industry, of whom no fewer than two shall represent private political risk insurers, one shall represent private political risk reinsurers, and one shall represent insurance or reinsurance brokerage firms.

(B) Up to four persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

(2) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

(3) MEETINGS.—The advisory group shall meet not later than September 30, 1989, and at least annually thereafter. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Sec. 235.[211] **Issuing Authority, Direct Investment Fund and Reserves.**—(a)(1) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a) shall not exceed $7,500,000,000.

(2) The maximum contingent liability outstanding at any one time pursuant to guaranties issued under section 234(b) shall not exceed in the aggregate $1,500,000,000.[212] Commitments to guaran-

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[211] 22 U.S.C. 2195. Sec. 235 was added by sec. 105 of the FA Act of 1969.

[212] Sec. 2203(b)(1)(A) of Public Law 100–418, 102 Stat. 1328, struck out "$750,000,000" and inserted "$1,000,000,000". Sec. 106 of the OPIC Amendments Act of 1988, H.R. 5263, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) raised the ceiling on investment guaranties to $1,500,000,000.

Sec. 5(a)(1) of the OPIC Amendments Act of 1981 (Public Law 97–65, 95 Stat. 1022) inserted the last sentence in par. (2) in lieu of the following: "*Provided*, That the Corporation shall not make any commitment to issue any guaranty which would result in a fractional reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 234(b) or similar predecessor guaranty authority."

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tee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(3) [213] The Corporation shall not make any commitment to issue any guaranty which would result in a reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 234(b) or similar predecessor guaranty authority.

(4) [213] The Congress, in considering the budget programs transmitted by the President for the Corporation, pursuant to section 104 of the Government Corporation Control Act, as amended, may limit the obligations and contingent liabilities to be undertaken under section 234 (a) and (b) as well as the use of funds for operating and administrative expenses.[214]

(5) [215] Subject to paragraphs (2), (3), and (4), the Corporation shall issue guarantees under section 234(b) having an aggregate contingent liability with respect to principal of not less than $200,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such guarantees.

(6) [215] The authority of section 234 (a) and (b) shall continue until September 30, 1992.[216]

(b) There shall be established a revolving fund, known as the Direct Investment Fund, to be held by the Corporation. Such fund shall consist initially of amounts made available under section 232, shall be available for the purposes authorized under section 234(c), shall be charged with realized losses and credited with realized gains and shall be credited with such additional sums as may be transferred to it under the provisions of section 236. The Corporation shall transfer to the Fund in the fiscal year 1982, and in each fiscal year thereafter—

(1) at least 10 per centum of the net income of the Corporation for the preceding fiscal year, and

(2) all amounts received by the Corporation during the preceding fiscal year as repayment of principal and interest on loans made under section 234(c), to the extent such amounts

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The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) provided the following:

"During the fiscal year 1989, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal."

Sec. 235(a)(2) was also previously amended by sec. 4(1) of Public Law 95-268, 92 Stat. 214.

[213] Sec. 5(a)(2) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1023) redesignated existing pars. (3) and (4) as pars. (4) and (5), respectively, and added a new par. (3).

[214] The Foreign Operations, Export Financing, and Related Programs Appropriation Act, 1989 (Public Law 100-461, 102 Stat. 2268) provided:

"The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year."

[215] Sec. 2203(b)(1)(B) and (C) of Public Law 100-418 (102 Stat. 1328) redesignated paragraph (5) as (6) and inserted a new (5).

[216] Sec. 4(2) of Public Law 95-268 (92 Stat. 214) extended the authority from Dec. 31, 1977, to Sept. 30, 1981. This date was further extended to Sept. 30, 1985, by sec. 5(b)(1) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1023). Sec. 10 of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1673), further extended the date from Sept. 30, 1985 to Sept. 30, 1988. Sec. 107 of the OPIC Amendments Act of 1988, H.R. 5263, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) extended the date from Sept. 30, 1988 to Sept. 30, 1992.

have not been expended or obligated before the effective te of the Overseas Private Investment Corporation Amend ts Act of 1981.

The Corporation shall make loans under section 234(c) in an aggregate amount of not less than $25,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such loans: *Provided, however,* That loans from the Direct Investment Fund are authorized for any fiscal year only to the extent or in such amounts as provided in advance in appropriation Acts.[217]

(c) There shall be established in the Treasury of the United States an insurance and guaranty fund, which shall have separate accounts to be known as the Insurance Reserve and the Guaranty Reserve, which reserves shall be available for discharge of liabilities, as provided in subsection (d) of this section [218] until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section. Such fund shall be funded by: (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 223(b) and the amount made available to the Corporation pursuant to subsection (e) of this section [218] and (2) such sums as shall be appropriated pursuant to subsection (f) of this section for such purposes. The allocation of such funds to each such reserve shall be determined by the Board after consultation with the Secretary of the Treasury. Additional amounts may thereafter be transferred to such reserves pursuant to section 236.

(d) Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 234 [218] under similar predecessor guaranty authority or under section 234A, [219] shall be paid first out of the Insurance Reserve, as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guaranties issued under section 234(b) or under similar predecessor guaranty authority shall be paid first out of the Guaranty Reserve as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section.[218]

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[217] The text of subsec. (b) beginning with the words "The Corporation shall transfer to the Fund" was added by sec. 5(c) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1023).

The Foreign Operations, Export Financing, and Related Programs Appropriation Act, 1989 (Public Law 100-461, 102 Stat. 2268) provided the following:

"During the fiscal year 1989 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000."

Sec. 235(b) was amended by sec. 2203(b)(2) of the Omnibus Trade and Competitiveness Act of 1988 (Pubic Law 100-418, 102 Stat. 1328). It formerly read as follows: " * * * and the Corporation shall use the funds so transferred to make loans under section 234(c) to the extent that there are eligible projects which meet the Corporation's criteria for funding * * *".

[218] Sec. 17(b) of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1676) replaced references to "section 234(e)" and "section 235(f)" with references to "subsection (e)", or "subsection (j)", "of this section", and references to "section 235(d)" with "subsection (d) of this section".

[219] Sec. 2(3)(B) of the OPIC Amendments Act of 1974 (Public Law 93-390) substituted "insurance or reinsurance issued under section 234" in lieu of "insurance issued under section 234(a)".

The reference to sec. 234A was added by sec. 9(b) of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1672).

(e) There is hereby authorized to be transferred to the Corporation at its call, for the purposes specified in section 236, all fees and other revenues collected under predecessor guaranty authority from December 31, 1968, available as of the date of such transfer.

(f) [220] There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund, to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations shall be made to augment the Insurance Reserve until the amount of funds in the Insurance Reserve is less than $25,000,000. Any appropriations to augment the Insurance Reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974. The purpose for which securities may be issued under such Bond Act shall include any such purchase.

Sec. 236.[221] **Income and Revenues.**—In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

(a) payment of all expenses of the Corporation, including investment promotion expenses;

(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 235, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

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[220] Subsec. (f) was amended by sec. 2(3)(C) of the OPIC Amendments Act of 1974 (Public Law 93-390). It formerly read as follows: "(f) There is hereby authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance and guaranty fund or to discharge the liabilities under insurance and guaranties issued by the Corporation or issued under predecessor guaranty authority."

[221] 22 U.S.C. 2196. Sec. 236 was added by sec. 105 of the FA Act of 1969.

(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.

Sec. 237.[222] **General Provisions Relating to Insurance Guaranty, and Financing Program.**—(a) Insurance guaranties, and reinsurance [223] issued under this title shall cover investment made in connection with projects in any less developed friendly country or area with the government to which the President of the United States has agreed to institute a program for insurance, guaranties, or reinsurance.[223]

(b) The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, guaranty or reinsurance [223] issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guaranty, or reinsurance [223] is to be made, and right, title, claim, or cause of action existing in connection therewith.

(c) All guaranties issued prior to July 1, 1956, all guaranties issued under sections 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, all guaranties heretofore issued pursuant to prior guaranty authorities repealed by the Foreign Assistance Act of 1969, and all insurance, reinsurance, [223] and guaranties issued pursuant to this title shall constitute obligations, in accordance with the terms of such insurance, reinsurance, [223] or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

(d) [224] Fees shall be charged for insurance, guaranty, and reinsurance coverage in amounts to be determined by the Corporation. In the event fees charged for investment insurance, guaranties, or reinsurance are reduced, fees to be paid under existing contracts for the same type of insurance, guaranties, or reinsurance and for similar guaranties issued under predecessor guaranty authority may be reduced.

(e) No insurance, guaranty, or reinsurance [223] of any equity investment shall extend beyond twenty years from the date of issuance.

(f) Compensation for insurance, reinsurance, or guaranties issued under this title shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide that (1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets, and (2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss.[225] Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234 or 234A so that risk of loss as to at least 10 per centum of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties and [226] (3) [227] compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.

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[222] 22 U.S.C. 2197. Sec. 237 was added by Sec. 105 of the FA Act of 1969.

Sec. 110(c) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) struck "and Guaranty" and inserted "Guaranty, and Financing".

[223] Sec. 2(4) of the OPIC Amendments Act of 1974 (Public Law 93-390) added the reference to reinsurance.

[224] Subsec. (d) was amended by sec. 2(4)(D) of the OPIC Amendments Act of 1974 (Public Law 93-390). It formerly read as follows: "(d) Fees shall be charged for insurance and guaranty coverage in amounts to be determined by the Corporation. In the event fees to be charged for investment insurance or guaranties are reduced, fees to be paid under existing contracts for the same type of guaranties or insurance and for similar guaranties issued under predecessor guaranty authority may be reduced".

(g) No payment may be made under any guaranty, insurance or reinsurance [223] issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(h) Insurance, guaranties, or reinsurance [228] of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

(i) Claims arising as a result of insurance, reinsurance [229] or guaranty operations under this title or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) Each guaranty contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

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[225] The first sentence of subsec. (f) was amended and restated by sec. 6(a) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1023). Previous amendments to this sentence in subsec. (f) which are retained in the new text include the following: The word "reinsurance" was added by sec. 2(4)(F) of Public Law 93-390; the basic language of clause (1) was added by sec. 5 of Public Law 95-268 (92 Stat. 215).

[226] This sentence was added by sec. 2(4)(G) of the OPIC Amendments Act of 1974 (Public Law 93-390). The phrase "except that limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties" was added by sec. 5 of Public Law 95-268 (92 Stat. 215).

A sentence, as added by sec. 2(4)(G) of Public Law 93-390 and which previously appeared at this point, was struck out by sec. 6(b) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1023). It formerly read as follows: "The preceding sentence shall not apply to the extent not permitted by State law."

[227] Subpara. (3) as added by sec. 6(b) of the OPIC Amendments Act of 1985 (Public Law 99-204).

[228] Sec. 2(4)(I) of the OPIC Amendments Act of 1974 (Public Law 93-390) substituted the words ", guaranties, or reinsurance" in lieu of "or guaranties".

[229] Sec. 2(4)(J) of the OPIC Amendments Act of 1974 (Public Law 93-390) added the word ", reinsurance".

(k) [230] In making a determination to issue insurance, guaranties, or reinsurance under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty, or reinsurance upon the balance of payments of the United States.

(l) [231] (1) No payment may be made under any insurance or reinsurance which is issued under this title on or after the date of enactment of this subsection [232] for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this title, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation under the Foreign Corrupt Practices Act of 1977.

(2) Not later than 120 days after the date of enactment of this subsection, [232] the Corporation shall adopt regulations setting forth appropriate conditions under which any person convicted under the Foreign Corrupt Practices Act of 1977 for an offense related to a project insured or otherwise supported by the Corporation shall be suspended, for a period of not more than five years, from eligibility to receive any insurance, reinsurance, guaranty, loan, or other financial support authorized by this title.

(m) [233] (1) Before finally providing insurance, reinsurance, guarantees, or financing under this title for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization relating to the public health or safety or the environment which are applicable to the project; and

(B) to the maximum extent practicable, any restriction under any law of the United States relating to public health or safety or the environment that would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to section 239(g).

(2) Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (1), the Corporation shall take into account any comments it receives on the project involved.

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[230] Subsec. (k) was amended by sec. 2(4)(K) of the OPIC Amendments Act of 1974 (Public Law 93-390). It formerly read as follows: "(k) In making a determination to issue insurance or a guaranty under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance or guaranty upon the balance of payments of the United States".

[231] Subsec. (l) was added by sec. 6 of Public Law 95-268 (92 Stat. 215).

[232] Subsec. (l) became effective April 24, 1978.

[233] Subsec. (m) was added by sec. 4(b) of the OPIC Amendments Act of 1985 (Public Law 99-204).

(3) On or before September 30, 1986, the Corporation shall notify appropriate government officials of a country of the guidelines, standards, and legal restrictions described in paragraph (1) that apply to any project in that country—

(A) which the Corporation identifies as potentially posing major hazards to public health and safety or the environment; and

(B) for which the Corporation provided insurance, reinsurance, guarantees, or financing under this title before the date of enactment of this subsection and which is in the Corporation's portfolio on that date.

Sec. 238.[234] **Definitions.**—As used in this title—

(a) the term "investment" includes any contribution or commitment [235] of funds, commodities, services, patents, processes, or techniques, in the form of (1) a loan or loans to an approved project, (2) the purchase of a share of ownership in any such project, (3) participation in royalties, earnings, or profits of any such project, and (4) the furnishing of commodities or services pursuant to a lease or other contract;

(b) the term "expropriation" includes, but is not limited to, any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project;

(c) the term "eligible investor" means: (1) United States citizens; (2) corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States any State or territory thereof, or the District of Columbia, [236] and substantially beneficially owned by United States citizens; and (3) foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: *Provided however,* That the eligibility of such foreign corporation shall be determined without regard to any shares, in aggregate less than 5 per centum of the total issued and subscribed share capital, [237] held by other than the United States owners: *Provided further,* That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as the time the insurance or guaranty is issued; and

(d) the term "predecessor guaranty authority" means prior guaranty authorities (other than housing guaranty authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, and section 111(b)(3) of the Economic Cooperation Act of 1948, as amended (exclusive of authority relating to informational media guaranties).

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[234] 22 U.S.C. 2198. Sec. 238 was added by sec. 105 of the FA Act of 1969.

[235] The words "or commitment" were added by sec. 7 of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1024).

[236] Reference to the District of Columbia was added by sec. 17(a) of the OPIC Amendments Act of 1985 (Public Law 99-204).

[237] The words "required by Law to be", which appeared at this point were struck out by sec. 104(a) of the FA Act of 1971.

Sec. 239.[238] **General Provisions and Powers.**—(a) The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be resident thereof.

(b) The President shall transfer to the Corporation, at such time as he may determine, all obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 234 (a), (b), and (d). Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized under this title as may be determined by the President.[239, 240]

(c)[241] (1) The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this title.

(2) An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation at least once every three years, in accordance with generally accepted Government auditing standards for a financial and compliance audit, as issued by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than six and one-half months after the end of the last fiscal year covered by the audit. The General Accounting Office may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the General Accounting Office considers necessary.

(3) In lieu of the financial and compliance audit required by paragraph (2), the General Accounting Office shall, if the Office considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2). The Corporation shall reimburse the General Accounting Office for the full cost of any audit conducted under this paragraph.

(4) All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which

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[238] 22 U.S.C. 2199. Sec. 239 was added by sec. 105 of the FA Act of 1969.

[239] A Presidential Determination of Dec. 30, 1969, provided for AID administration until transfer to the Overseas Private Investment Corporation.

[240] Sec. 7(1) of Public Law 95-268 (92 Stat. 215) struck out a paragraph previously appearing in subsec. (b) which had directed OPIC to cease operating the programs authorized by sec. 234 (b) through (e) and sec. 240 on Dec. 31, 1979.

[241] Sec. 11 of the OPIC Amendments Act of 1985 (Public Law 99-204), substituted the text of subsec. (c) in lieu of:

"The Corporation shall be subject to the applicable provisions of the Government Corporation Control Act, except as otherwise provided in this title."

are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office.

(d) To carry out the purposes of this title, the Corporation is authorized to adopt and use a corporate seal, which shall be judicially noticed; to sue and be sued in its corporate name; to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law; to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate; to indemnify directors, officers, employees and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities; to require bonds of officers, employees, and agents and pay the premiums therefor; notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(i)); [242] to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business; to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates; to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; [243] and to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

(e) The Inspector General [244] of the Agency for International Development (1) may conduct [245] reviews, investigations, and inspections of all phases of the Corporation's operations and activities and (2) shall conduct all security activities of the Corporation relating to personnel and the control of classified material. With respect to his responsibilities under this subsection, the Inspector General [244] shall report to the Board. The agency primarily responsible for administering part I shall be reimbursed by the Corporation for all expenses incurred by the Inspector General[244] in connection with his responsibilities under this subsection.

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[242] The words to this point beginning with "or participation certificates * * *" were added by sec. 7(2) of Public Law 95-268 (92 Stat. 215).

[243] This phrase beginning with "to collect or compromise * * *" was added by sec. 8(1) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1024).

[244] Reference to the Inspector General was substituted in lieu of a reference to the Auditor-General by sec. 8(2)(A) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1024).

[245] The words "may conduct" were substituted in lieu of the words "shall have the responsibility for planning and directing the execution of audits," by sec. 8(2)(B) of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1024).

(f)[246, 247] Except for the provisions of this title, no other provision of this or any other law shall be construed to prohibit the operation in Yugoslavia, or the People's Republic of China of the programs authorized by this title, if the President determines that the operation of such program in such country is important to the national interest.

(g)[246, 248] The requirements of section 117(c) of this Act relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this title in connection with a project in a country..

(h)[246, 249] In order to carry out the policy set forth in paragraph (1) of the second undesignated paragraph of section 231 of this Act, the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the Agency for International Development.[250]

(i)[246, 251] The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 116 of this Act shall apply to any insurance, reinsurance, guaranty, or loan issued by the Corporation for projects in a country, except that in addition to the exception (with respect to benefiting needy people) set forth in subsection (a) of such section, the Corpo-

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[246] Sec. 8(3) of the OPIC Amendments Act of 1981 (Public Law 97–65, 95 Stat. 1024) struck out subsecs. (f), (j), and (k) (subsecs. (j) and (k) added by sec. 7(3) of Public Law 95–268), and redesignated existing subsecs. (g), (h), (i), and (l) as subsecs. (f), (g), (h), and (i), respectively.

Old subsec. (f) authorized the establishment of an Advisory Board in order to further the purposes of OPIC; old subsec. (j) blocked OPIC support for copper exploration or mining projects begun after Jan. 1, 1981, and projects for the production of copper beginning after this date if the project would cause injury to the primary U.S. copper industry; and old subsec. (k) blocked OPIC support for any project to establish or expand production of processing of palm oil, sugar, or citrus crops for export.

[247] Subsec. (f) was originally added as subsec. (g) by sec. 104(b) of the FA Act of 1971. Reference in the subsection to the People's Republic of China was added by Public Law 96–327 (94 Stat. 1026). Reference to Romania was struck out by sec. 108 of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268).

[248] Subsec. (g) was originally added as subsec. (h) by sec. 2(5)(B) of the OPIC Amendments Act of 1974 (Public Law 93–390). Sec. 4(c) of the OPIC Amendments Act of 1985 (Public Law 99–204), restated and amended subsec. (g) in its current form. It previously read as follows:

"Within six months after the date of enactment of this subsection, the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this title."

The OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) replaced "118(c)" with "117(c)".

[249] Subsec. (h) was originally added as subsec. (i) by sec. 7(3) of Public Law 95–268 (92 Stat. 215).

[250] This consultative function was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[251] Subsec. (i) was originally added as subsec. *(l)* by sec. 8 of Public Law 95–268 (92 Stat. 216).

ration may support a project if the national security interest so requires.

(j)[252] The Corporation, including its franchise, capital, reserves, surplus, advances, intangible property, and income, shall be exempt from all taxation at any time imposed by the United States, by any territory, dependency, or possession of the United States, or by any State, the District of Columbia, or any county, municipality, or local taxing authority.

(k)[252] The Corporation shall publish, and make available to applicants for insurance, reinsurance, guarantees, financing, or other assistance made available by the Corporation under this title, the policy guidelines of the Corporation relating to its programs.

Sec. 240.[253] **Small Business Development.**—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas. The Corporation shall allocate up to 50 percent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this section. Such funds may be expended, notwithstanding the requirements of section 231(a), on such terms and conditions as the Corporation may determine, through loans, grants, or other programs authorized by section 234 and section 234A.

Sec. 240A.[254] **Reports to the Congress.**—After (a) the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

(1) an assessment, based upon the development impact profiles required by section 239(h), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

(2) a description of any project for which the Corporation—

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[252] Secs. 12 and 13 of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1674), added subsecs. (j) and (k), respectively.

[253] 22 U.S.C. 2200. This new sec. 240 was added by sec. 9 of Public Law 95-268 (92 Stat. 216). Previously, sec. 240 had concerned agricultural credit and self-help community development projects but had been repealed by the FA Act of 1974.

[254] 22 U.S.C. 2200a. Sec. 240A, as added by sec. 105 of the FA Act of 1969 and amended by sec. 2(7) of Public Law 93-390, was amended and restated by sec. 10 of Public Law 95-268 (92 Stat. 216).

Sec. 9(b) of the OPIC Amendments act of 1981 (Public Law 97-65, 95 Stat. 1024) required the following report:

"(b) The Overseas Private Investment Corporation shall prepare and submit to the Congress not later than June 30, 1982, a report on methods for estimating the probability that particular investments or types of investments will nor will not be made if insurance or other support by the Corporation is not provided. The report should review methods of taking into consideration the availability of insurance in the private sector as well as the self-insurance capabilities of investors. The report shall include recommendations on how the Corporation can incorporate consideration of such estimates when deciding which investments to support, particularly if not all applications of eligible investors can be approved. The report shall be based on studies conducted by persons who are not officers or employees of the Corporation as well as on studies conducted by the Corporation."

(A) refused to provide any insurance, reinsurance, guaranty, financing, or other financial support, on account of violations of human rights referred to in section 239(i); or

(B) notwithstanding such violations, provided such insurance, reinsurance, guaranty, financing, or financial support, on the basis of a determination (i) that the project will directly benefit the needy people in the country in which the project is located, or (ii) that the national security interest so requires.

(b)[255] (1) Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the preceding fiscal year, the Corporation initially issued any insurance, reinsurance, or guaranty or made any direct loan. Each such report shall include projections of—

(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

(B) the final destination of the products to be produced as a result of those projects; and

(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

(2) Each report required by this subsection shall be based on an analysis of each of the projects described in paragraph (1). The reports may, however, present information and analysis in aggregate form, but only if—

(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade.

(c)(1)[256] * * * [Repealed—1988]

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[255] Subsec. (b), which required a one-time report to Congress on the development of private and multilateral programs for investment insurance and any reinsurance arrangements OPIC had made with private insurance companies, multilateral organizations and institutions, or other entities, was struck out by sec. 9(a)(2) of the OPIC Amendments Act of 1981 (Public Law 97–65, 95 Stat. 1024).

[256] Sec. 240A(c) was repealed by sec. 110(b)(1) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268). It previously read as follows:

"(c)(1) Not later than December 31, 1987, the Corporation shall submit to the Congress a report analyzing the actual effects, as of September 30, 1986, on employment in the United States of all projects with respect to which any insurance, reinsurance, or guaranty issued by the Corporation was in effect on September 30, 1986, or with respect to which repayments on direct loans by the Corporation were being made as of that date. The report shall set forth—

"(A) the amount of United States exports generated by those projects during fiscal year,

"(B) to the extent feasible, the final destination of the products produced each fiscal year as a result of those projects, and

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(d) The Corporation shall maintain as part of its records—

(1) all information collected in preparing the report required by subsection (c) (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988) [257], whether the information was collected by the Corporation itself or by a contractor; and

(2) a copy of the analysis of each project analyzed in preparing the reports required by either subsection (b) or (c) (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).[257]

(e) [258] Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 234A(a), including the following information, to the extent such information is available to the Corporation:

(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this title.

(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this title.

(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

(f) [258] Subsections (b) and (e) do not require the inclusion in any report submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).

"(C) the impact of such production on the production of similar products in the United States during each fiscal year with regard to both domestic sales and exports.

"(2) In preparing this report, the Corporation shall collect factual data for each of the projects described in paragraph (1). The report may, however, present this information and the analysis of this information in aggregate form, but only if—

"(A) those projects which have a positive effect on employment in the United States and those projects which have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the impact of the projects in each economic sector on the level of employment in the United States and on the United States trade balance.

"(3) The Corporation shall consult with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate in determining the methodology to be used in acquiring the information and in doing the analysis necessary to prepare the report required by this subsection, including identification of which projects should be analyzed. To facilitate this consultation, the Corporation shall submit to those committees by September 30, 1986, a written description of its proposed methodology, including its proposed methodology with respect to determining final destinations.

"(4) To the extent that the report required by this subsection does not identify the final destination of the products produced as a result of a particular project, the report shall explain why it was not feasible to provide that information."

[257] Sec. 110(b)(2) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) added the parenthetical text following "(c)".

[258] Sec. 105(b) of the OPIC Amendments Act of 1988, S. 2757, enacted into law by reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) amended Sec. 240A by redesignating subsec. (e) as (f) and inserting a new subsec. (e).

Sec. 240B.[259] * * * [Repealed—1985]

Title V—Disadvantaged Children in Asia[260]

Sec. 241.[261] Assistance to Certain Disadvantaged Children in Asia.—(a) The Congress recognizes the humanitarian needs of disadvantaged children in Asian countries where there has been or continues to be a heavy presence of United States military and related personnel in recent years. Moreover, the Congress finds that inadequate provision has been made for the care and welfare of such disadvantaged children, particularly those fathered by the United States citizens.

(b) Accordingly, the President is authorized to expend up to $3,000,000[262] of funds made available under chapter 1 of this part, in addition to funds otherwise available for such purposes, to help meet the needs of these disadvantaged children in Asia by assisting in the expansion and improvement of orphanages, hostels, day care centers, school feeding programs, and health, education, and welfare programs. Assistance provided under this section shall be furnished under the auspices of and by international organizations or private voluntary agencies operating within, and in cooperation with, the countries of Asia where these disadvantaged children reside.

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[259] 22 U.S.C. 2200b. Sec. 240B was added by sec. 10 of the OPIC Amendments Act of 1981 (Public Law 97-65, 95 Stat. 1024). Sec. 240B was repealed by sec. 15 of the OPIC Amendments Act of 1985 (Public Law 99-204). It previously read as follows:

"Return of Appropriated Funds.—The Corporation shall return to the general fund of the Treasury, in a manner consistent with the objectives set forth in section 231, amounts equal to the total amounts which were appropriated to the Corporation before January 1, 1975, pursuant to section 235(f). In order to carry out the preceding sentence, the Corporation shall, in each fiscal year, pay to the Treasury an amount equal to 25 per centum of the net income of the Corporation for the preceding fiscal year, after making suitable provisions for transfers to reserves and capital, until the aggregate amount of such payments equals the amounts required to be returned to the Treasury by the preceding sentence."

It was added again in a comprehensively amended form by sec. 14 of the OPIC Amendments Act of 1985 (Public Law 99-204, 99 Stat. 1674).

[260] Sec. 116 of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 952) struck out the title heading "Development Research" and added this new heading for title V.

[261] 22 U.S.C. 2201. This new sec. 241 was added by sec. 116 of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 952). Previously, sec. 241 had contained the general authority under title V but had been repealed by Public Law 94-161, 89 Stat. 849.

[262] Sec. 903(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 190) increased the authorization of funds from $2,000,000 to $3,000,000.

Title VI—Alliance for Progress [263] * * * [Repealed—1978]

Title VII—Evaluation of Programs [264] * * * [Repealed—1978]

Title VIII—Southeast Asia Multilateral and Regional Programs [265] * * * [Repealed—1978]

Title IX—Utilization of Democratic Institutions in Development [266]

Sec. 281.[267] Utilization of Democratic Institutions in Development. —(a) [268] In carrying out programs authorized in this chapter and chapter 1, [269] emphasis shall be placed on assuring maximum participation in the task of economic development on the part of the people of the developing countries, through the encouragement of democratic private and local governmental institutions.

(b) [268] In order to carry out the purposes of this title, programs under this chapter and chapter 1 [269] shall—

(1) recognize the differing needs, desires, and capacities of the people of the respective developing countries and areas;

(2) use the intellectual resources of such countries and areas in conjunction with assistance provided under this Act so as to encourage the development of indigenous institutions that meet their particular requirements for sustained economic and social progress; and

(3) support civic education and training in skills required for effective participation in governmental and political processes essential to self-government.

(c) [268] In the allocation of funds for research under this chapter and chapter 1, [269] emphasis shall be given to research designed to examine the political, social, and related obstacles to development in countries receiving assistance under part I of this Act. In particular, emphasis should be given to research designed to increase understanding of the ways in which development assistance can support democratic, social and political trends in recipient countries.[270]

(d) [268] Emphasis shall also be given to the evaluation of relevant past and current programs under part I of this Act and to applying this experience so as to strengthen their effectiveness in implementing the objectives of this title.

(e) [271] In order to carry out the purposes of this title, the agency primarily responsible for administering part I of this Act, shall develop systematic programs of inservice training to familiarize its personnel with the objectives of this title and to increase their knowledge of the political and social aspects of development. In addition to other funds available for such purposes, not to exceed 1 per centum of the funds authorized to be appropriated for grant assistance under this chapter and chapter 1 [269] may be used for carrying out the objectives of this subsection.

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[263] Title VI, as added by the FA Act of 1962, was repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 942).

[264] Title VII, as added by the FA Act of 1963, was repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 942).

[265] Title VIII, as added by the FA Act of 1966, was repealed by sec. 102(g)(1)(A) of the International Development and Food Assistance Act of 1978 (92 Stat. 942).

[266] Title IX was added by sec. 106 of the FA Act of 1966.

[267] 22 U.S.C. 2218. Sec. 281 was added by sec. 106 of the FA Act of 1966.

[268] Subsec. designation "(a)" and subsecs. (b), (c) and (d) were added by sec. 108, of the FA Act of 1967.

[269] The words "and chapter 1" were added by sec. 102(g)(2)(A) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 942).

[270] The last sentence was added by sec. 106(a) of the FA Act of 1968.

[271] Subsec. (e) was added by sec. 106(b) of the FA Act of 1968.

Title X—Programs Relating to Population Growth [272] * * * [Repealed—1978]

Title XI—Food Production Targets and Reports [273] * * * [Repealed—1978]

Title XII—Famine Prevention and Freedom From Hunger [274]

Sec. 296.[274] **General Provisions.**—(a) The Congress declares that, in order to prevent famine and establish freedom from hunger, the United States should strengthen the capacities of the United States land-grant and other eligible universities in program-related agricultural institutional development and research, consistent with sections 103 and 103A, should improve their participation in the United States Government's international efforts to apply more effective agricultural sciences to the goal of increasing world food production, and in general should provide increased and longer term support to the application of science to solving food and nutrition problems of the developing countries.

The Congress so declares because it finds—

(1) that the establishment, endowment, and continuing support of land-grant universities in the United States by Federal, State, and county governments has led to agricultural progress in this country;

(2) that land-grant and other universities in the United States have demonstrated over many years their ability to cooperate with foreign agricultural institutions in expanding indigenous food production for both domestic and international markets;

(3) that, in a world of growing population with rising expectations, increased food production and improved distribution, storage, and marketing in the developing countries is necessary not only to prevent hunger but to build the economic base for growth, and moreover, that the greatest potential for increasing world food supplies is in the developing countries where the gap between food need and food supply is the greatest and current yields are lowest;

(4) that increasing and making more secure the supply of food is of greatest benefit to the poorest majority in the developing world;

(5) that research, teaching, and extension activities, and appropriate institutional development therefor are prime factors in increasing agricultural production abroad (as well as in the

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[272] Title X, as added by the FA Act of 1967, was repealed by sec. 104(b) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 947).

[273] Title XI, as added by the FA Act of 1967, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 959).

[274] 22 U.S.C. 2220a. Sec. 312 of Public Law 94–161 (89 Stat. 849) added title XII and new sec. 296.

United States) and in improving food distribution, storage, and marketing;

(6) moreover, that agricultural research abroad has in the past and will continue in the future to provide benefits for agriculture in the United States and that increasing the availability of food of higher nutritional quality is of benefit to all; and

(7) that universities need a dependable source of Federal funding, as well as other financing, in order to expand, or in some cases to continue, their efforts to assist in increasing agricultural production in developing countries.

(b) Accordingly, the Congress declares that, in order to prevent famine and establish freedom from hunger, various components must be brought together in order to increase world food production, including—

(1) strengthening the capabilities of universities to assist in increasing agricultural production in developing countries;

(2) institution-building programs for development of national and regional agricultural research and extension capacities in developing countries which need assistance;

(3) international agricultural research centers;

(4) contract research; and

(5) research program grants.

(c) The United States should—

(1) effectively involve the United States land-grant and other eligible universities more extensively in each component;

(2) provide mechanisms for the universities to participate and advise in the planning, development, implementation, and administration of each component; and

(3) assist such universities in cooperative joint efforts with—

(A) agricultural institutions in developing nations, and

(B) regional and international agricultural research centers,

directed to strengthening their joint and respective capabilities and to engage them more effectively in research, teaching, and extension activities for solving problems in food production, distribution, storage, marketing, and consumption in agriculturally underdeveloped nations.

(d) As used in this title, the term "universities" means those colleges or universities in each State, territory, or possession of the United States, or the District of Columbia, now receiving, or which may hereafter receive, benefits under the Act of July 2, 1862 (known as the First Morrill Act), or the Act of August 30, 1890 (known as the Second Morrill Act), which are commonly known as "land-grant" universities; institutions now designated or which may hereafter be designated as sea-grant colleges under the Act of October 15, 1966 (known as the National Sea Grant College and Program Act), which are commonly known as sea-grant colleges; and other United States colleges and universities which—

(1) have demonstrable capacity in teaching, research, and extension activities in the agricultural sciences; and

(2) can contribute effectively to the attainment of the objective of this title.

(e) As used in this title, the term "Administrator" means the Administrator of the Agency for International Development.[275]

(f)[276] * * * [Repealed—1978]

(g)[276] * * * [Repealed—1978]

Sec. 297.[277] **General Authority.**—(a) To carry out the purposes of this title, the President is authorized to provide assistance on such terms and conditions as he shall determine—

(1) to strengthen the capabilities of universities in teaching, research, and extension work to enable them to implement current programs authorized by paragraphs (2), (3), (4), and (5) of this subsection, and those proposed in the report required by section 300 of this title;

(2) to build and strengthen the institutional capacity and human resources skills of agriculturally developing countries so that these countries may participate more fully in the international agricultural problem-solving effort and to introduce and adapt new solutions to local circumstances;

(3) to provide program support for long-term collaborative university research, in the developing countries themselves to the maximum extent practicable,[278] on food production, distribution, storage, marketing and consumption;

(4) to involve universities more fully in the international network of agricultural science, including the international research centers, the activities of international organizations such as the United Nations Development Program and the Food and Agriculture Organization, and the institutions of agriculturally developing nations; and

(5) to provide program support for international agricultural research centers, to provide support for research projects identified for specific problem-solving needs, and to develop and strengthen national research systems in the developing countries.

(b) Programs under this title shall be carried out so as to—

(1) utilize and strengthen the capabilities of universities in—

(A) developing capacity in the cooperating nation for classroom teaching in agriculture, plant and animal sciences, human nutrition, and vocational and domestic arts and other relevant fields appropriate to local needs;

(B) agricultural research to be conducted in the cooperating nations, at international agricultural research centers, or in the United States;

(C) the planning, initiation, and development of extension services through which information concerning agriculture and related subjects will be made available directly to farmers and farm families in the agriculturally developing nations by means of education and demonstration; or

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[275] Sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA), transferred all responsibilities and functions vested in this subsection from the Administrator to the Director of IDCA.

[276] Subsecs. (f) and (g), which defined the terms "agriculture" and "farmers," were repealed by sec. 103(c) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 945). Similar definitions for these terms can now be found in sec. 644 (o) and (p) of this Act.

[277] 22 U.S.C. 2220b. Sec. 297 was added by sec. 312 of Public Law 94-161 (89 Stat. 849).

[278] The words ", in the developing countries themselves to the maximum extent practicable," were added by sec. 113(1) of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 364).

(D) the exchange of educators, scientists, and students for the purpose of assisting in successful development in the cooperating nations;

(2) take into account the value to the United States agriculture of such programs, integrating to the extent practicable the programs and financing authorized under this title with those supported by other Federal or State resources so as to maximize the contribution to the development of agriculture in the United States and in agriculturally developing nations; and

(3) whenever practicable, build on existing programs and institutions including those of the universities and the United States Department of Agriculture and the United States Department of Commerce.

(c)[279] To the maximum extent practicable, activities under this section shall—

(1) be directly related to the food and agricultural needs of developing countries;

(2) be carried out within the developing countries;

(3) be adapted to local circumstances;

(4) provide for the most effective interrelationship between research, education, and extension in promoting agricultural development in developing countries; and

(5) emphasize the improvement of local systems for delivering the best available knowledge to the small farmers of such countries.

(d) The President shall exercise his authority under this section through the Administrator.[280]

Sec. 298.[281] Board for International Food and Agricultural Development.—(a) To assist in the administration of the programs authorized by this title, the President shall establish a permanent Board for International Food and Agricultural Development (hereafter in this title referred to as the "Board") consisting of seven members, not less than four to be selected from the universities. Terms of members shall be set by the President at the time of appointment. Members of the Board shall be entitled to such reimbursement for expenses incurred in the performance of their duties (including per diem in lieu of subsistence while away from their homes or regular place of business) as the President deems appropriate.

(b) The Board's general areas of responsibility shall include, but not be limited to—

(1) participating in the planning, development, and implementation of,

(2) initiating recommendations for, and

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[279] Subsec. (c) was amended and restated by sec. 113(2) of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 364). It formerly read as follows:

"(c) To the maximum extent practicable, activities under this section shall (1) be designed to achieve the most effective interrelationship among the teaching of agricultural sciences, research, and extension work, (2) joins primarily on the needs of agricultural producers, (3) be adapted to local circumstances, and (4) be carried out within the developing countries."

[280] This authority of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[281] 22 U.S.C. 2220c. Sec. 298 was added by sec. 312 of Public Law 94-161 (89 Stat. 849).

(3) monitoring of,
the activities described in section 297 of this title.

(c) The Board's duties shall include, but not necessarily be limited to—

(1) participating in the formulation of basic policy, procedures, and criteria for project proposal review, selection, and monitoring;

(2) developing and keeping current a roster of universities—

(A) interested in exploring their potential for collaborative relationships with agricultural institutions, and with scientists working on significant programs designed to increase food production in developing countries,

(B) having capacity in the agricultural sciences,

(C) able to maintain an appropriate balance of teaching, research, and extension functions,

(D) having capacity, experience, and commitment with respect to international agricultural efforts, and

(E) able to contribute to solving the problems addressed by this title;

(3) recommending which developing nations could benefit from programs carried out under this title, and identifying those nations which have an interest in establishing or developing agricultural institutions which engage in teaching, research, or extension activities;

(4) reviewing and evaluating memorandums of understanding or other documents that detail the terms and conditions between the Administrator and universities participating in programs under this title;

(5) reviewing and evaluating agreements and activities authorized by this title and undertaken by universities to assure compliance with the purposes of this title;

(6) recommending to the Administrator the apportionment of funds under section 297 of this title; [282] and

(7) assessing the impact of programs carried out under this title in solving agricultural problems in the developing nations.

(d) The President may authorize the Board to create such subordinate units as may be necessary for the performance of its duties, including but not limited to the following:

(1) a Joint Research Committee to participate in the administration and development of the collaborative activities described in section 297(a)(3) of this title; and

(2) a Joint Committee on Country Programs which shall assist in the implementation of the bilateral activities described in sections 297(a)(2), 297(a)(4), and 297(a)(5).

(e) In addition to any other functions assigned to and agreed to by the Board, the Board shall be consulted in the preparation of the annual report required by section 300 of this title and on other agricultural development activities related to programs under this title.

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[282] This function of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

Sec. 299.[283] **Authorization.**—(a) The President is authorized to use any of the funds hereafter made available under section 103 of this Act to carry out the purposes of this title. Funds made available for such purposes may be used without regard to the provisions of sections 110(b) and 122(d) [284] of this Act.

(b) Foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the United States shall be used to the maximum extent possible in lieu of dollars in carrying out the provisions of this title.

(c) Assistance authorized under this title shall be in addition to any allotments or grants that may be made under other authorizations.

(d) Universities may accept and expend funds from other sources, public and private, in order to carry out the purposes of this title. All such funds, both prospective and inhand, shall be periodically disclosed to the Administrator as he shall by regulation require, but no less often than in an annual report.[285]

Sec. 300.[286] **Annual Report.**—The President shall transmit to the Congress, not later than April 1 of each year, a report detailing the activities carried out pursuant to this title during the preceding fiscal year and containing a projection of programs and activities to be conducted during the subsequent five fiscal years. Each report shall contain a summary of the activities of the Board established pursuant to section 298 of this title and may include the separate views of the Board with respect to any aspect of the programs conducted or proposed to be conducted under this title.

Chapter 3—International Organizations and Programs

Sec. 301.[287] **General Authority.**—(a) When he determines it to be in the national interest, the President is authorized to make voluntary contributions on a grant basis to international organizations and to programs administered by such organizations, and in the case of the Indus Basin Development Fund administered by the International Bank for Reconstruction and Development to make grants and loans payable as to principal and interest in United States dollars and subject to the provisions of section 122(b), [288] on such terms and conditions as he may determine, in order to further the purposes of this part.

(b) [289] * * * [Repealed—1981]

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[283] 22 U.S.C. 2220d. Sec. 299 was added by sec. 312 of Public Law 94-161 (89 Stat. 849).

[284] The words "110(b) and 122(d)" were substituted in lieu of "110(b), 211(a), and 211(d)" by sec. 102(c)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 941).

[285] This function of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[286] 22 U.S.C. 2220e. Sec. 300 was added by sec. 312 of Public Law 94-161 (89 Stat. 849).

[287] 22 U.S.C. 2221.

[288] The words to this point, beginning with ", and in the case of the Indus Basin", were added by sec. 107(a) of the FA Act of 1966. The reference to sec. 122(b) was substituted in lieu of a reference to sec. 201(d) by the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 941).

[289] Subsec. (b), as amended by sec. 107(b) of the FA Act of 1966, was deleted by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The text formerly read as follows:

"(b) Contributions to the United Nations Development Program for the calendar years succeeding 1961 may not exceed forty per centum of the total amount contributed for such purposes

Continued

(c)[290] No contributions by the United States shall be made to the United Nations Relief and Works Agency for Palestine Refugees in the Near East except on the condition that the United Nations Relief and Works Agency take all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism.

(d)[291] In any case in which a fund established solely by United States contributions under this or any other Act is administered by an international organization under the terms of an agreement between the United States and such international organization, such agreement shall provide that the Comptroller General of the United States shall conduct such audits as are necessary to assure that such fund is administered in accordance with such agreement. The President shall undertake to modify any existing agreement entered into before the date of enactment of this subsection to conform to the requirements of the preceding sentence. The Comptroller General shall report simultaneously to the Congress and the President the results of the audit conducted under this subsection.[292]

(e)[293] (1) In the case of the United Nations and its affiliated organizations, including the International Atomic Energy Agency, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations of external, professionally qualified groups[294] of appropriate size for the purpose of providing an independent and continuous program of selective examinations, review, evaluation, and audits[295] of the programs and activities of such organizations. Such proposal shall provide that such groups[294] shall be established in accordance with such terms of reference as such governing authority may prescribe and that the reports of such groups[294] on each examination,

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(including assessed and audited local costs) for each such year. The President shall seek to assure that no contribution to the United Nations Development Program authorized by this Act shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime."

[290] Subsec. (c) was amended by sec. 108(a) of the FA Act of 1969. It formerly read as follows: "(c) In determining whether or not to continue furnishing assistance for Palestine refugees in the Near East through contributions to the United Nations Relief and Works agency for Palestine Refugees in the Near East, the President shall take into account (1) whether Israel and the Arab host governments are taking steps toward the resettlement and repatriation of such refugees, and (2) the extent and success of efforts by the Agency and the Arab host governments to rectify the Palestine refugee relief rolls. Contributions by the United States for the fiscal year 1967 shall not exceed $13,300,000. No contributions under this subsection shall be made except on the condition that the United Nations Relief and Works Agency take all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army."

[291] Subsec. (d) was added by sec. 110(a) of the FA Act of 1967.

[292] This sentence was added by sec. 701(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3156).

[293] Subsec. (e) was added by sec. 9(1) of the FA Act of 1973.

[294] The reference to external groups was substituted in lieu of a reference to a single group by sec. 702(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3156). All other references in subsec. (e) to these groups were also made plural by sec. 702(b).

[295] The reference to an audit was added by sec. 702(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3156).

review, evaluation or audits[295] shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.[294]

(2) In the case of the International Bank for Reconstruction and Development and the Asian Development Bank, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, evaluation, and audits[295] of the programs and activities of such organizations. Such proposal shall provide that such groups shall be established in accordance with such terms of reference as such governing authorities may prescribe, and that the reports of such groups on each examination, review, evaluation, or audit[295] shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.

(3)[296] * * * [Repealed—1981]

(f)[297] The President is hereby authorized to permit United States participation in the International Fertilizer Development Center and is authorized to use any of the funds made available under this part for the purpose of furnishing assistance to the Center on such terms and conditions as he may determine.

(g)[298] It is the sense of the Congress that the President should instruct the appropriate representatives of the United States to the United Nations to encourage the specialized agencies of the United Nations to transfer the funding of technical assistance programs carried out by such agencies to the United Nations Development Program.

(h)[299] The President is authorized to permit the United States to participate in and to use any of the funds made available under this part after the date of enactment of this subsection for the purpose of furnishing assistance (on such terms and conditions as the

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[296] Par. (3), as added by sec. 9(1) of the FA Act of 1973 and amended by sec. 702(b)(6) of Public Law 96-533, was deleted by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat.1560). Par. (3) had required that the U.S. representatives to these international organizations submit any reports they received under this subsection to the President for transmittal to Congress and the Comptroller General. The Comptroller General was also directed to periodically review these reports and submit any appropriate suggestions to the Congress and the President.

[297] Subsec. (f) was added by sec. 313(c) of Public Law 94-161, 89 Stat. 849.

[298] Subsec. (g) was added by sec. 117(d) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 953).

[299] Subsec. (h) was added by sec. 311(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

President may determine) to the International Food Policy Research Institute.

Sec. 302.[300] **Authorization.**—(a)(1) There are authorized to be appropriated to the President $270,000,000 for fiscal year 1986 and $236,084,000 for fiscal year 1987 [301] for grants to carry out the pur-

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[300] 22 U.S.C. 2222.

[301] The amount $236,084,000 was substituted in lieu of the amount $275,000,000 by sec. 404 of Public Law 99–529, 100 Stat. 3010.

The authorization figures and earmarkings for fiscal years 1986 and 1987 were added by sec. 402(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 190).

Authorizations under sec. 302 during recent years included the following: fiscal year 1975—$165,000,000; fiscal year 1976—$195,500,000; fiscal year 1977—$219,900,000; fiscal year 1978—$252,000,000; fiscal year 1979—$285,450,000; fiscal year 1980—$267,280,000; fiscal year 1981—$233,350,000; fiscal year 1982—$218,600,000; fiscal year 1983—$218,600,000; fiscal year 1984—$266,214,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "International Organizations and Programs":

"For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $226, 115,000, of which $2,650,334 shall be made available for the Organization of American States which amount shall be in additions to funds earmarked elsewhere under this heading for that organization: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds appropriated under this heading shall be made available only as follows: $111,000,000 for the United Nations Development Program; $60,400,000 for the United Nations Children's Fund of which $3,000,000 shall be made available to UNICEF as funds in trust for the activities of Childhope or similar organizations to help homeless or street children: *Provided further,* That the funds made available for UNICEF (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than 30 days from the date of enactment of this Act: *Provided further,* That if the previous proviso has not been complied with, none of the funds appropriated by this Act remaining unobligated or unexpended at that time shall be obligated or expended until funds appropriated under this heading are made available to UNICEF (less amounts withheld pursuant to the previous proviso); $980,000 for the World Food Program; $1,500,000 for the United Nations Capital Development Fund; $800,000 for the United Nations Voluntary Fund for the Decade for Women; $200,000 for the United Nations International Research and Training Institute for the Advancement of Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $1,960,000 for the World Meteorological Organization Voluntary Cooperation Program; $22,000,000 for the International Atomic Energy Agency; $9,500,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $650,000 for the Convention on International Trade in Endangered Species; $220,000 for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $250,000 for the UNIDO Investment Promotion Service; $7,349,666 for the Organization of American States; and $2,500,000 for the International Fund for Agricultural Development: *Provided further,* That the Department of State shall provide a report to the Committees on Appropriations, not later than June 1, 1989, analyzing the effectiveness of the United Nations Environment Program (UNEP) and detailing how UNEP has spent or intends to spend the funds appropriated under the heading. The State Department shall make this report immediately available to the Appropriations Committees: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency."

The Foreign Operations, Export Financing, and Related Programs Appropriation Act, 1989, also provided the following:

"Sec. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

* * * * * * *

"Sec. 526. Notwithstanding any other provision of law or of this Act, none of the funds provided for 'International Organizations and Programs' shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest Af-

Continued

poses of this chapter, in addition to funds available under other Acts for such purposes. Of the amount appropriated for each of the fiscal years 1986 and 1987 pursuant to these authorizations—

(A) 59.65 percent shall be for the United Nations Development Program;

(B) 19.30 percent shall be for the United Nations Children's Fund;

(C) 7.20 percent shall be for the International Atomic Energy Agency, except that these funds may be contributed to that Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency;

(D) 5.44 percent shall be for Organization of American States development assistance programs;

(E) 3.51 percent shall be for the United Nations Environment Program;

(F) 0.70 percent shall be for the World Meteorological Organization;

(G) 0.70 percent shall be for the United Nations Capital Development Fund;

(H) 0.35 percent shall be for the United Nations Education and Training Program for Southern Africa;

(I) 0.18 percent shall be for the United Nations Voluntary Fund for the Decade for Women;

(J) 0.07 percent shall be for the Convention on International Trade in Endangered Species;

(K) 0.70 percent shall be for the World Food Program;

(L) 0.18 percent shall be for the United Nations Institute for Namibia;

(M) 0.12 percent shall be for the United Nations Trust Fund for South Africa;

(N) 0.04 percent shall be for the United Nations Voluntary Fund for Victims of Torture;

(O) 0.07 percent shall be for the United Nations Industrial Development Organization;

(P) 0.55 percent shall be for the United Nations Development Program Trust Fund To Combat Poverty and Hunger in Africa;

(Q) 0.97 percent shall be for contributions to international conventions and scientific organizations;

(R) 0.18 percent for the United Nations Center on Human Settlements (Habitat); and

(S) 0.09 percent shall be for the World Heritage Fund.[302]

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rican Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

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"Sec. 550. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States."

[302] Sec. 117(e) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 953) also provided an authorization of $1,000,000 for contribution to the World Assembly on Aging.

(2)[303] The Congress reaffirms its support for the work of the Inter-American Commission on Human Rights. To permit such Commission to better fulfill its function of insuring observance and respect for human rights within this hemisphere, not less than $357,000 of the amount appropriated for fiscal year 1976 and $358,000 of the amount appropriated for fiscal year 1977, for contributions to the Organization of American States, shall be used only for budgetary support for the Inter-American Commission on Human Rights.

(3)[304] * * * [Repealed—1981]

(b)(1)[305] There is authorized to be appropriated to the President for loans for Indus Basin Development to carry out the purposes of this section, in addition to funds available under this or any other Act for such purposes, for use beginning in the fiscal year 1969, $61,220,000.[306] Such amounts are authorized to remain available until expended.

(2)[305] There is authorized to be appropriated to the President for grants for Indus Basin Development, in addition to any other funds available for such purposes, for use in the fiscal year 1974, $14,500,000,[307] and for use in the fiscal year 1975, $14,500,000,[307] and for use beginning in the fiscal year 1976, $27,000,000,[308] which amounts shall remain available until expended. The President shall not exercise any special authority granted to him under section 610(a) or 614(a) of this Act to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provisions of this Act.[309]

(c) None of the funds available to carry out this chapter shall be contributed to any international organization or to any foreign government or agency thereof to pay the costs of developing or operating any volunteer program of such organization, government, or agency relating to the selection, training, and programing of volunteer manpower.

(d)[310] * * * [Repealed—1978]

(e)[310] * * * [Repealed—1978]

(f)[310] * * * [Repealed—1978]

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[303] Par. (2) was added by sec. 313(a)(1)(C) of Public Law 94-161, 89 Stat. 849.

[304] Par. (3), which had prohibited the use of funds under this subsection for the U.N. Institute for Namibia during fiscal year 1979 unless the President determined that such funds would not be used to support the military or paramilitary activities of the South-West African Peoples Organization, was repealed by sec. 734(a) of the International Security and Development Cooperation Act 1981 (Public Law 97-113, 95 Stat. 1560).

[305] Paragraph designation "(1)" and par. (2) were added by sec. 108(c) of the FA Act of 1969.

[306] Sec. 313(a)(2) of Public Law 94-161, 89 Stat. 849, substituted "$61,220,000" in lieu of "$51,220,000".

FA Appropriations Act, 1976: "Indus Basin Development Fund, loans: For expenses authorized by section 302(b)(1) $10,000,000, to remain available until expended: *Provided*, That no other funds appropriated or made available under this Act shall be used for the purposes of such section during the current fiscal year."

[307] Sec. 9(3) of the FA Act of 1973 substituted "for use in the fiscal year 1974, $14,500,000, and for use in the fiscal year 1975, $14,500,000," in lieu of "for use in the fiscal year 1972, $15,000,000, and for use in the fiscal year 1973, $15,000,000"

[308] The words to this point commencing with "and for use beginning * * *" were added by sec. 313(a)(3) of Public Law 94-161 (89 Stat. 849).

FA Appropriations Act, 1977: "For necessary expenses to carry out the provisions of section 302(b)(2), $15,750,000."

[309] The last sentence was added by sec. 107(b)(2) of the FA Act of 1971.

[310] Subsecs. (d), (e), (f), (g), and (h) of sec. 302 were repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 961).

(g)[310] * * * [Repealed—1978]

(h)[310] * * * [Repealed—1978]

(i)[311] In addition to amounts otherwise available under this section there are authorized to be appropriated for fiscal year 1976 $1,000,000 and for fiscal year 1977 $2,000,000 to be available only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear missile facilities and materials.[312] Amounts appropriated under this subsection are authorized to remain available until expended.

(j)[313] In addition to amounts otherwise available under this section for such purposes, there are authorized to be appropriated to the President $3,000,000 for fiscal year 1989 to be available only for United States contributions to multilateral and regional drug abuse control programs. Of the amount authorized to be appropriated by this subsection—

(1) $2,000,000 shall be for a United States contribution to the United Nations Fund for Drug Abuse Control;

(2) $600,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Legal Development Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the budget of the Organization of American States for that fiscal year bears to the total contributions to the budget of the Organization of American States for that fiscal year; and

(3) $400,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Law Enforcement Training Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the budget of the Organization of American States for that fiscal year bears to the total contributions to the budget of the Organization of American States for that fiscal year.

Sec. 303.[314] **Indus Basin Development.**—In the event that funds made available under this Act (other than part II) are used by or under the supervision of the International Bank for Reconstruction and Development in furtherance of the development of the Indus Basin through the program of cooperation among South Asian and other countries of the free world, which is designed to promote economic growth and political stability in South Asia, such funds may be used in accordance with requirements, standards, or procedures established by the Bank concerning completion of plans and cost estimates and determination of feasibility, rather than with requirements, standards, or procedures concerning such matters set forth in this or other Acts; and such funds may also be used without regard to the provisions of section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241),[315] whenever the President determines that such provisions cannot be fully satisfied without seriously impeding or preventing accomplishment of the purposes of such programs: *Provided,* That compensating allowances are made in the administration of other programs to the same or other areas to which the requirements of said section 901(b) are applicable.

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[311] Subsec. (i) was added by sec. 505 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-392).

[312] Supplemental Appropriations Act, 1977 (Public Law 95-26, 91 Stat. 66):

"For an additional amount for "International organizations and programs", $31,000,000: *Provided*, That of the funds appropriated under this paragraph, $3,000,000 shall be allocated for a contribution to the International Atomic Energy Agency to strengthen the Agency's safeguards program."

[313] Sec. 4107 of Public Law 100-690 (102 Stat. 4266) added sec. (j).

[314] 22 U.S.C. 2223.

Sec. 304.[316] **United Nations Peacekeeping.**—* * * [Repealed—1978]

Sec. 305.[317] **Integration of Women.**—The President is requested to instruct each representative of the United States to each international organization of which the United States is a member (including but not limited to the International Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development Bank, the International Monetary Fund, the United Nations, and the Organization for Economic Cooperation and Development) to carry out their duties with respect to such organizations in such a manner as to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policy-making positions within such organizations, thereby improving the status of women. The President is further requested, in making United States contributions to such organizations, to take into account the progress, or lack of progress, of such organizations in adopting and implementing policies and practices which encourage and promote the integration of women into the national economies of member and recipient countries, and into professional and policy-making positions within such organizations, in accordance with the World Plan of Action of the Decade for Women.[318]

Sec. 306.[319] **Reports on International Organizations.**—(a) The annual reports to the Congress under section 2 of the Act of September 21, 1950 (64 Stat. 902, 22 U.S.C. 262a), shall be submitted within nine months after the end of the fiscal year to which they relate.

(b)[320] (1) The President shall submit semiannual reports to the Congress listing all voluntary contributions by the United States Government to international organizations. One of the semiannual reports shall be submitted no later than July 1 and shall list all contributions made during the first six months of the then current fiscal year. The other semiannual report shall be submitted no later than January 1 and shall list all contributions made during the last six months of the preceding fiscal year. Each such report shall specify the Government agency making the voluntary contribution, the international organization to which the contribution was made, the amount and form of the contribution, and the purpose of the contribution. Contributions shall be listed on both an agency-by-agency basis and an organization-by-organization basis.

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[315] For text, see page 604.

[316] Sec. 304, as added by the FA Act of 1967, was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 961).

[317] 22 U.S.C. 2225. Sec. 305 was added by sec. 54 of the FA Act of 1974, which inserted it at the end of part III, chapter 3. Sec. 313(b) of Public Law 94–161 reinserted it at the end of part I, chapter 3.

[318] This sentence was added by sec. 118(b) of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 540).

[319] 22 U.S.C. 2226. Sec. 306 was added by sec. 703 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3157).

[320] Pursuant to Executive Order 12374 (July 28, 1982, 47 F.R. 32903), the functions vested in the President under subsec. (b)(1) were delegated to the Secretary of State. Such Executive Order also instructed the Director of OMB to furnish the Secretary of State with those reports received by the Director pursuant to subsec. (b)(2).

(2) In order to facilitate the preparation of the report required by paragraph (1), the head of any Government agency which makes a voluntary contribution to any international organization shall promptly report that contribution to the Director of the Office of Management and Budget.

(3) As used in this subsection the term "contribution" means any contribution of any kind, including the furnishing of funds or other financial support, services of any kind (including the use of experts or other personnel) or commodities, equipment, supplies, or other material.

Sec. 307.[321] Withholding of United States Proportionate Share for Certain Programs of International Organizations.—(a) Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this chapter shall be available for the United States proportionate share for programs for the South-West Africa People's Organization, Libya, Iran, Cuba, or the Palestine Liberation Organization or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it.

(b) The Secretary of State—

(1) shall review, at least annually, the budgets and accounts of all international organizations receiving payments of any funds authorized to be appropriated by this chapter; and

(2) shall report to the appropriate committees of the Congress the amounts of funds expended by each such organization for the purposes described in subsection (a) and the amount contributed by the United States to each such organization.

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[321] 22 U.S.C. 2227. Sec. 307 was added by sec. 403 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 219).

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) provided:

"Sec. 526. Notwithstanding any other provision of law or of this Act, none of the funds provided for 'International Organizations and Programs' shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended."

Chapter 4—Supporting Assistance [322] [Repealed—1972]

Chapter 5—Contingencies [323]

Sec. 451. [324] **Contingencies.**[323]—(a) [325] (1) Notwithstanding any other provision of law, the President is authorized to use not to exceed $10,000,000 of funds made available in any fiscal year to carry out any provision of this Act (other than the provisions of chapter 1 of this part) in order to provide, for any emergency purposes, assistance authorized by this part in accordance with the provisions applicable to the furnishing of such assistance.

(2) The President shall report promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate each time he exercises the authority contained in this subsection.

(b) [326] * * * [Repealed—1981]

(c) No part of this fund shall be used to pay for any gifts to any officials of any foreign government made heretofore or hereafter.[327]

Chapter 6—Central America Democracy, Peace, and Development Initiative [328, 329]

Sec. 461.[328, 330] **Statement of Policy.**—(a) The Congress finds that—

(1) the building of democracy, the restoration of peace, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States; and

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be

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[322] Sec. 202(b) of the FA Act of 1971 repealed chapter 4 of part I. This subject matter is now covered under chapter 4 of part II of this Act, Economic Support Fund.

[323] Sec. 2 of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 701) changed the title of chapter 5 and sec. 451 from "Contingency Fund" to "Contingencies". Previously, sec. 503(1) of Public Law 94-329 substituted "Contingency Fund" for "Disaster Relief" in the title of chapter 5 while sec. 2(1) of Public Law 93-333 changed the title of chapter 5 from "Contingency Fund" to "Disaster Relief".

[324] 22 U.S.C. 2261. Sec. 451 was amended by sec. 28(c) of the FA Act of 1974. It formerly read as follows: "SEC. 451. CONTINGENCY FUND—(a) There is authorized to be appropriated to the President for each of the fiscal years 1974 and 1975 not to exceed $30,000,000, to provide assistance authorized by this part primarily for disaster relief purposes, in accordance with the provisions applicable to the furnishing of such assistance. (b) The President shall provide quarterly reports to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Speaker of the House of Representatives on the programing and the obligation of funds under subsection (a)."

[325] Subsec. (a) was amended and restated by sec. 2 of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 701).

[326] Subsec. (b), which had required a quarterly report from the President concerning the programing and obligation of funds under this section, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[327] Sec. 452, which was added by sec. 2(2) of the Foreign Disaster Assistance Act of 1974 (Public Law 93-333) and formerly appeared at this point, was redesignated as sec. 494 by Sec. 101(4) of Public Law 94-161 (89 Stat. 849).

[328] Chapter 6, Sections 461 through 466 were added by sec. 701 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 234).

[329] Previously, chapters 6 and 7 (as added by the FA Act of 1966), were repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 961). Chapter 6 was previously titled: "Assistance to Countries Having Agrarian Economies".

[330] 22 U.S.C. 2271.

effectively dealt with to assure a democratic and economically and politically secure Central America.

(b)(1) The achievement of democracy, respect for human rights, peace, and equitable economic growth depends primarily on the cooperation and the human and economic resources of the people and governments of Central America. The Congress recognizes that the United States can make a significant contribution to such peaceful and democratic development through a consistent and coherent policy which includes a long-term commitment of assistance. This policy should be designed to support actively—

(A) democracy and political reform, including opening the political process to all members of society;

(B) full observance of internationally recognized human rights, including free elections, freedom of the press, freedom of association, and the elimination of all human rights abuses;

(C) leadership development, including training and educational programs to improve public administration and the administration of justice;

(D) land reform, reform in tax systems, encouragement of private enterprise and individual initiative, creation of favorable investment climates, curbing corruption where it exists, and spurring balanced trade;

(E) the establishment of the rule of law and an effective judicial system; and

(F) the termination of extremist violence by both the left and the right as well as vigorous action to prosecute those guilty of crimes and the prosecution to the extent possible of past offenders.

(2) The policy described in paragraph (1) should also promote equitable economic growth and development, including controlling the flight of capital and the effective use of foreign assistance and adhering to approved programs for economic stabilization and fiscal responsibility. Finally, this policy should foster dialog and negotiations—

(A) to achieve peace based upon the objectives of democratization, reduction of armament, an end to subversion, and the withdrawal of foreign military forces and advisers; and

(B) to provide a security shield against violence and intimidation.

(3) It is the purpose of this chapter to establish the statutory framework and to authorize the appropriations and financing necessary to carry out the policy described in this section.

(c) The Congress finds, therefore, that the people of the United States are willing to sustain and expand a program for economic and military assistance in Central America if the recipient countries can demonstrate progress toward and a commitment to these goals.

Sec. 462.[328, 331] **Conditions on Furnishing Assistance.**—The President shall ensure that assistance authorized by this Act and the Arms Export Control Act to Central American countries is furnished in a manner which fosters demonstrated progress toward

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[331] 22 U.S.C. 2272.

and commitment to the objectives set forth in section 461. Where necessary to achieve this purpose, the President shall impose conditions on the furnishing of such assistance. In carrying out this section, the President shall consult with the Congress in regard to progress toward the objectives set forth in section 461, and any conditions imposed on the furnishing of assistance in furtherance of those objectives.

Sec. 463.[328, 332] **Peace Process in Central America.**—The Congress—

(1) strongly supports the initiatives taken by the Contadora group and the resulting Document of Objectives which has been agreed to by Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua and which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region; and

(2) finds that the United States should provide such assistance and support as may be appropriate in helping to reach comprehensive and verifiable final agreements, based on the Document of Objectives, which will ensure peaceful and enduring solutions to the Central American conflicts.

Sec. 464.[328, 333] **Economic Assistance Coordination.**—(a) The Congress finds that participation by Central American countries in an effective forum for dialog on, and the continuous review and advancement of, Central America's political, economic, and social development would foster cooperation between the United States and Central American countries.

(b) It is the sense of the Congress that—

(1) the President should enter into negotiations with the countries of Central America to establish a Central American Development Organization (hereafter in this section referred to as the "Organization") to help provide a continuous and coherent approach to the development of the Central American region; and

(2) the establishment of the Organization should be based upon the following principles:

(A) Participation in the Organization should be open to the United States, other donors, and those Central American countries that commit themselves to, among other things, respecting internationally recognized human rights, building democracy, and encouraging equitable economic growth through policy reforms.

(B) The Organization should be structured to include representatives from both the public and private sectors, including representatives from the labor, agriculture, and business communities.

(C) The Organization should meet periodically to carry out the functions described in subparagraphs (D) and (E) of this paragraph and should be supported by a limited professional secretariat.

(D) The Organization should make recommendations affecting Central American countries on such matters as—

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[332] 22 U.S.C. 2273.
[333] 22 U.S.C. 2274.

(i) political, economic, and social development objectives, including the strengthening of democratic pluralism and the safeguarding of internationally recognized human rights;

(ii) mobilization of resources and external assistance needs; and

(iii) reform of economic policies and structures.

(E) The Organization should have the capacity for monitoring country performance on recommendations issued in accordance with subparagraph (D) of this paragraph and for evaluating progress toward meeting such country objectives.

(F) To the maximum extent practicable, the United States should follow the recommendations of the Organization in disbursing bilateral economic assistance for any Central American country. No more than 75 percent of such United States assistance in any fiscal year should be disbursed until the recommendations of the Organization for that fiscal year have been made final and communicated to the donor countries. The limitation on disbursements contained in the preceding sentence should apply only to recommendations made final and communicated to donor countries prior to the fourth quarter of such fiscal year. The United States representative to the Organization should urge other donor countries to similarly implement the recommendations of the Organization.

(G) The administrator of the agency primarily responsible for administering part I of this Act, or his designee, should represent the United States Government in the Organization and should carry out his functions in that capacity under the continuous supervision and general direction of the Secretary of State.

(c) Subject to subsection (d)(2), the President is authorized to participate in the Organization.

(d)(1) The administrator of the agency primarily responsible for administering part I of this Act, under the supervision and direction of the Secretary of State, shall prepare a detailed proposal to carry out this section and shall keep the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate fully and currently informed concerning the development of this proposal.

(2) The President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a copy of the text of any agreement, which he proposes to sign, that would provide for the establishment of and United States participation in the Organization no less than sixty days prior to his signature. During that sixty-day period there shall be full and formal consultations with and review by those committees in accordance with procedures applicable to reprogramming notifications pursuant to section 634A [334] of this Act.

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[334] For text, see page 224.

Sec. 465.[335] **Authorization for Fiscal Years 1988 and 1989.**—(a) In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the President, for the purpose of furnishing nonmilitary assistance for Central American countries, $1,200,000,000 for each of the fiscal years 1988 and 1989, which are authorized to remain available until expended.

(b) For the purpose of providing the assistance described in subsection (a), funds appropriated pursuant to the authorizations in that subsection may be transferred by the President for obligation in accordance with the authorities of part I of this Act (including chapter 4 of part II), the Peace Corps Act, the Migration and Refugee Assistance Act of 1962, the United States Information and Education Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, the National Endowment for Democracy Act, and the State Department Basic Authorities Act of 1956.

Sec. 466.[336] **Definitions.**—For the purposes of this chapter, the term "Central American countries" includes Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and regional programs which benefit such countries.

Chapter 7—Joint Commissions on Rural Development[329] * * * [Repealed—1978]

Chapter 8—International Narcotics Control[337]

Sec. 481.[338] **International Narcotics Control.**—(a)[339] (1) It is the sense of the Congress that—

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[335] 22 U.S.C. 2275.

[336] 22 U.S.C. 2276.

[337] Chapter 8 was added by sec. 109 of the FA Act of 1971.

For other important legislation related to narcotics control, see the International Narcotics Control Act of 1988 (title IV of Public Law 100–690, 102 Stat. 4261); International Narcotics Control Act of 1986 (title II of Public Law 99–570, 100 Stat. 3207); and title VI of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 190).

[338] 22 U.S.C. 2291. Sec. 481 was added by sec. 109 of the FA Act of 1971. Sec. 503 of the Foreign Relations Authorization Act of 1972 amended sec. 481 and added sec. 482. Sec. 481 previously read as follows:

"It is the sense of the Congress that effective international cooperation is necessary to put an end to the illicit production, trafficking in, and abuse of dangerous drugs. In order to promote such cooperation, the President is authorized to conclude agreements with other countries to facilitate control of the production, processing, transportation, and distribution of narcotic analgesics, including opium and its derivatives, other narcotic drugs and psychotropics and other controlled substances as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513). Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of the production of, processing of, and traffic in, narcotic and psychotropic drugs. In furnishing such assistance the President may use any of the funds made available to carry out the provisions of this Act. The President shall suspend economic and military assistance furnished under this or any other Act, and shall suspend sales under the Foreign Military Sales Act and under title I of the Agriculture Trade Development and Assistance Act of 1954 with respect to any country when the President determines that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such suspension shall continue until the President determines that the government of such country has taken adequate steps to carry out the purposes of this chapter."

[339] Subsection designation "(a)" and subsec. (b) were added by sec. 11(a) of the FA Act of 1973. Subsec. (a) was subsequently amended by sec. 1003(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164, 97 Stat. 1053).

Under the FA Act of 1971, funds to implement sec. 481 were available from any funds made available to carry out this Act.

(A) under the Single Convention on Narcotic Drugs, 1961, each signatory country has the responsibility of limiting to licit purposes the cultivation, production, manufacture, sale, and other distribution of scheduled drugs;

(B) [340] suppression of international narcotics trafficking is among the most important foreign policy objectives of the United States;

(C) [340] the international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations;

(D) [340] international narcotics control programs should include, as a priority, the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived, and should also include the suppression of the illicit manufacture of and traffic in narcotic and psychotropic drugs; and

(E) [340] effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

This cooperation should include the development and transmittal of plans by each signatory country to the Single Convention on Narcotic Drugs, 1961, in which illicit narcotics and psychotropic crop cultivation exists, which would advise the International Narcotics Control Board, the United Nations Commission on Narcotic Drugs, and the international community of the strategy, programs, and timetable such country has established for the progressive elimination of that cultivation.

(2) In order to promote such cooperation, the President is authorized to conclude agreements with other countries to facilitate control of the production, processing, transportation, and distribution of narcotics analgesics, including opium and its derivatives, other narcotic and psychotropic drugs, and other controlled substances.

(3) [341] In order to promote international cooperation in combating international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.

(4) Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, or such terms and conditions as he may determine, for the control of narcotic and psychotropic drugs and other controlled substances.

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[340] Sec. 4502 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4285) redesignated subpara. (B) through (D) as (C) through (E) and added subparagraph (B).

[341] Par. (3) was added by sec. 2017 of Public Law 99-570, 100 Stat. 3207-68. Sec. 2017 redesignated the previous par. (3) as par. (4).

(b)[339, 342] (1) Not later than 45 days after the end of each calendar quarter, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on the programming and obligation, on a calendar basis, of funds under this chapter prior to the end of that quarter. The last such report for each fiscal year shall include the aggregate obligations and expenditures made, and the types and quantity of equipment provided, on a calendar quarter basis, prior to end of that fiscal year—

(A) to carry out the purposes of this chapter with respect to each country and each international organization receiving assistance under this chapter, including the cost of the United States personnel engaged in carrying out such purposes in each such country and with each such international organization;

(B) to carry out each program conducted under this chapter in each country and by each international organization, including the cost of United States personnel engaged in carrying out each such program; and

(C) for administrative support services within the United States to carry out the purposes of this chapter, including the cost of United States personnel engaged in carrying out such purposes in the United States.

(2) Not later than August 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed midyear report on the activities and operations carried out under this chapter prior to such date. Such midyear report shall include, but not be limited to, the status of each agreement concluded prior to such date with other countries to carry out the purposes of this chapter.

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[342] Subsec. (b) was amended by sec. 604 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 228). It previously read:

"(b)(1) Not later than forty-five days after the date on which each calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on the programming and obligation, on a calendar quarter basis, of funds under this chapter prior to such date.

"(2) Not later than forty-five days after the date on which the second calendar quarter of each year ends and not later than forty-five days after the date on which the fourth calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed semiannual report on the activities and operations carried out under this chapter prior to such date. Such semiannual report shall include, but shall not be limited to—

"(A) the status of each agreement concluded prior to such date with other countries to carry out the purposes of this chapter; and

"(B) the aggregate of obligations and expenditures made, and the types and quantity of equipment provided, on a calendar quarter basis, prior to such date—

"(i) to carry out the purposes of this chapter with respect to each country and each international organization receiving assistance under this chapter including the cost of United States personnel engaged in carrying out such purposes in each such country and with such international organization;

"(C) international narcotics control programs should include, as a priority, the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived, and should also include the suppression of the illicit manufacture of and traffic in narcotic and psychotropic drugs; and

"(D) effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in and abuse of narcotic and psychotropic drugs."

(c) [343] (1) No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law. This paragraph does not prohibit an officer or employee from assisting foreign officers who are effecting an arrest.

(2) Unless the Secretary of State, in consultation with the Attorney General, has determined that the application of this paragraph with respect to that foreign country would be harmful to the national interests of the United States, no officer or employee of the United States may engage or participate in any direct police arrest action in a foreign country with respect to narcotics control efforts, notwithstanding any other provision of law. Nothing in paragraph (1) shall be construed to allow United States officers or employees to engage or participate in activities prohibited by this paragraph in a country with respect to which this paragraph applies.

(3) Paragraphs (1) and (2) do not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

(4) With the agreement of a foreign country, paragraphs (1) and (2) shall not apply with respect to maritime law enforcement operations in the territorial sea of that country.

(5) No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

(6) This subsection shall not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.

(d) [344] (1) The Secretary of State shall inform the Secretary of Health and Human Services of the use or intended use by any country or international organization of any herbicide to eradicate marihuana in a program receiving assistance under this chapter.

(2) The Secretary of Health and Human Services shall monitor the impact on the health of persons who may use or consume marihuana of the spraying of a herbicide to eradicate such marihuana in a program receiving assistance under this chapter, and if the Secretary determines that such persons are exposed to amounts of such herbicide which are harmful to their health, the Secretary shall prepare and transmit a report to the Congress setting forth such determination together with any recommendations the Secretary may have.

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[343] Subsec. (c) was comprehensively amended and restated by sec. 2009 of Public Law 99–570, 100 Stat. 3207–64. Subsec. (c), the "Mansfield Amendment", was originally added by sec. 504(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 764).

[344] Subsec. (d), as added by sec. 4 of Public Law 95–384 (92 Stat. 730) and amended by sec. 3(b) of Public Law 96–92 (93 Stat. 702), was amended and restated by sec. 502(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1538). Sec. 502(a) (2) and (3) of Public Law 97–113 also stipulated the conditions under which funds appropriated prior to enactment of this amendment could be utilized generally, and specifically in the case of assistance for Colombia appropriated in fiscal year 1980. See page 406 for complete text of these conditions.

(3)[345] Of the funds authorized to be appropriated for the fiscal year 1982 under section 482, the President is urged to use not less than $100,000 to develop a substance that clearly and readily warns persons who may use or consume marihuana that it has been sprayed with the herbicide paraquat or other herbicide harmful to the health of such person.

(4)[345] If the Secretary of Agriculture determines that a substance has been developed that clearly and readily warns persons who may use or consume marihuana that it has been sprayed with the herbicide paraquat or other herbicide harmful to the health of such persons, such substance shall be used in conjunction with the spraying of paraquat or such other herbicide in any program receiving assistance under this chapter.

(5)[346] (A) The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide in the aerial eradication of coca in order to determine the impact of such use on the environment and on the health of individuals.

(B) The President shall report on such impact in the annual report required by subsection (e).

(C) If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.

(e)[347] (1) Not later than March[348] 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on United States policy to establish and encourage an international strategy to prevent the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances.

(2)(A) Each report pursuant to this subsection shall describe the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including policy development, bilateral and multilateral funding and other support for international narcotics control projects, representations of the

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[345] Sec. 502(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1539) provided that pars. (3) and (4) of sec. 481 "shall apply only to the extent provided in advance in an appropriations Act. For such purpose, the funds described in those paragraphs are authorized to be made available for the purposes specified in those paragraphs."

[346] Sec. 5 was added by sec. 4202(b) of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4267).

[347] Subsec. (e), as added by sec. 502(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1539), was amended and restated by sec. 1003(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1053).

Sec. 804 of Public Law 99-570 (100 Stat. 3207), provided as follows:

"Sec. 804. The Progress Reports.—The President shall include as a part of the annual report required under section 481(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 229(e)(1)) an evaluation of progress that each major drug producing country and each major drug-transit country has made during the reporting period in achieving the objectives set forth in section 802(b)."

[348] Sec. 2005(b) of Public Law 99-570 (100 Stat. 3207), substituted the word "March" in lieu of "February."

United States Government to international organizations and agencies concerned with narcotics control, training of foreign enforcement personnel, coordination of the international narcotics control activities of United States Government agencies, and technical assistance to international demand reduction programs.

(B) Each such report shall also describe the activities of the United States in international financial institutions to combat the entry of illicit narcotic and psychotropic drugs and other controlled substances into the United States.

(C) Each such report shall describe the activities for the fiscal year just ended, for the current fiscal year, and for the next fiscal year.

(3) Each such report shall identify those countries which are the significant direct or indirect sources of illicit narcotic and psychotropic drugs and other controlled substances significantly affecting the United States. For each such country, each report shall include the following:

(A) A detailed status report, with such information as can be reliably obtained, on the illicit narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

(B) A description of the assistance under this chapter and the other kinds of United States assistance which such country received in the preceding fiscal year, which are planned for such country for the current fiscal year, and which are proposed for such country for the next fiscal year, with an analysis of the impact that the furnishing of each such kind of assistance has had or is expected to have on the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances in such country.

(C) A description of the plans, programs, and timetables adopted by such country for the progressive elimination of the illicit cultivation of narcotic and psychotropic drugs and other controlled substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with these plans.

(D)[349] A discussion of the extent to which such country has cooperated with the United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.

(4) In addition, each report pursuant to this subsection shall include, for each major illicit drug producing country for which the President is proposing to furnish United States assistance for the next fiscal year, a determination by the President of the maximum reductions in illicit drug production which are achievable during the next fiscal year. Each determination of the President under the

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[349] Subpar. (D) was added by sec. 2008 of Public Law 99-570, 100 Stat. 3207-64.

preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.[350] Such determination shall be based upon (A) the measures which the country is currently taking, and the measures which the country has planned for the next fiscal year, in order to prevent narcotic and psychotropic drugs and other controlled substances from being cultivated, produced, or processed illicitly, in whole or in part in such country, from being transported through such country to United States Government personnel or their dependents, or from entering the United States unlawfully, and (B) the other information provided pursuant to this subsection.

(5) For each major illicit drug producing country which received United States assistance for the preceding fiscal year, each report pursuant to this subsection shall set forth the actual reductions in illicit drug production achieved by that country during such fiscal year.

(6) [351] Each report pursuant to this subsection shall describe the involvement of any foreign government (including any communist government) in illicit drug trafficking during the preceding fiscal year, including—

(A) the direct or indirect involvement of such government (or any official thereof) in the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, and

(B) any other activities of such government (or any official thereof) which have facilitated illicit drug trafficking.

(7) [352] Each report pursuant to this subsection shall include specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have cooperated fully with such agencies during the preceding year as described in subsection (h).

(8) [353] Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.

(f) [354] As soon as possible after the transmittal of the report required by subsection (e), the designated representatives of the President shall initiate appropriate consultations with members of the Committee on Foreign Relations of the Senate and members of the Committee on Foreign Affairs of the House of Representatives. Such consultations shall include in-person discussions by designated representatives of the President (including the Assistant Secretary of State for International Narcotics Control and appropriate representatives of the Department of Health and Human Services, the Department of the Treasury, the Department of Defense, the Department of Justice, and the Agency for International Development) to review the worldwide illicit drug production situation and the role that United States assistance to major illicit drug producing countries, and United States contributions to international financial institutions, have in combating the entry of illicit narcotic and psychotropic drugs and other controlled substances into the United States. Such consultation shall include, with respect to each major illicit drug producing country for which the President is proposing to furnish United States assistance for the next fiscal year, the furnishing of—

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[350] This sentence was added by sec. 4401 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4275).

[351] Par. (6) was added by sec. 606 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 229).

[352] Paragraph (7) was added by sec. 805 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331).

[353] Sec. 481(e)(8) was added by sec. 4402 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4275).

[354] Subsecs. (f), (g), (i), and (j) were added by sec. 1003(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1053).

(1) a description of the nature of the illicit drug production problem;

(2) an analysis of the climatic, geographic, political, economic, and social factors that affect the illicit drug production;

(3) a description of the methodology employed to determine the maximum achievable reductions in illicit drug production described pursuant to subsection (e)(4); and

(4) an analysis of any additional United States assistance that would be required to achieve those reductions.

The chairman of the Committee on Foreign Relations and the chairman of the Committee on Foreign Affairs shall each cause the substance of each consultation to be printed in the Congressional Record.

(g) [354] After consultations have been initiated pursuant to subsection (f), the Committee on Foreign Relations and the Committee on Foreign Affairs should hold a hearing to review the report submitted pursuant to subsection (e), especially the determinations described in subsection (e)(4). The hearing shall be open to the public unless the committee determines, in accordance with the rules of its House, that the hearing should be closed to the public.

(h) [355] ANNUAL CERTIFICATION PROCEDURES.—

(1) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—(A) Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653(a) for each major illicit drug producing country or major drug-transit country shall be withheld from obligation and expenditure, except as provided in paragraph (2).

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[355] Subsec. (h) was comprehensively amended and restated by sec. 4407(a) of Public Law 100–690, 102 Stat. 4277. Previous legislation required that the President, when making certification determinations, give foremost consideration to maximum achievable reductions in illicit production. Currently, reductions in illicit production are one of many criteria (others are primarily related to anti-narcotics law enforcement cooperation) for the President to consider when making determinations of certification. Previously, (h) was amended and restated by sec. 2005(a) of Public Law 99–570, 100 Stat. 3207.

Presidential Determination 88–10 of February 29, 1988, applying criteria of previous law, determined that Afghanistan, Iran, Panama and Syria did not meet standards set forth. The President determined and certified that the following major narcotics producing and/or major narcotics transit countries had met conditions: The Bahamas, Belize, Bolivia, Brazil, Burma, Colombia, Ecuador, Hong Kong, India, Jamaica, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Peru, and Thailand. The President determined that it was in the vital national interest of the United States to certify Laos, Lebanon, and Paraguay.

In 1988, resolutions were introduced to decertify the Bahamas, Bolivia, Mexico, Paraguay, and Peru. Of these, the one to decertify Mexico, which passed the Senate on April 14, 1988, was the only one to pass either chamber of Congress.

(B) The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in paragraph (2).

(2) CERTIFICATION PROCEDURE.—(A) Subject to paragraph (4), the assistance withheld from a country pursuant to paragraph (1)(A) may be obligated and expended, and the requirement of paragraph (1)(B) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by subsection (e), that—

(i) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

(I) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in subparagraph (B)) or a multilateral agreement which achieves the objectives of subparagraph (B),

(II) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

(III) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

(IV) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

(ii) for a country that would not otherwise qualify for certification under clause (i), the vital national interests of the United States require that the assistance withheld pursuant to paragraph (1)(A) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to paragraph (1)(B).

(B) A bilateral narcotics agreement referred to in subparagraph (A)(i)(I) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

(i) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

(ii) increase drug interdiction and enforcement;

(iii) increase drug treatment;

(iv) increase the identification of and elimination of illicit drug laboratories;

(v) increase the identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs;

(vi) increase cooperation with United States drug enforcement officials; and

(vii) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

(C) A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under subparagraph (A)(i) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of subparagraph (B).

(D) If the President makes a certification with respect to a country pursuant to subparagraph (A)(ii), he shall include in such certification—

(i) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this subsection and multilateral development bank assistance is not provided to such country; and

(ii) a statement weighing the risk described in clause (i) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

(E) The President may make a certification under subparagraph (A)(i) with respect to a major illicit drug producing country or major drug-transit country which is also a producer of licit opium only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

(3) MATTERS TO BE CONSIDERED.—In determining whether to make the certification required by paragraph (2) with respect to a country, the President shall consider the following:

(A) Have the actions of the government of that country resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4)? In the case of a major illicit drug producing country, the President shall give foremost consideration, in determining whether to make the determination required by paragraph (2), to whether the government of that country has taken actions which have resulted in such reductions.

(B) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States?

(C) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

(i) the enactment and enforcement by that government of laws prohibiting such conduct,

(ii) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

(iii) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts?

(D) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

(E) Has that government, as a matter of government policy, encouraged or facilitated the production or distribution of illicit narcotic and psychotropic drugs and other controlled substances?

(F) Does any senior official of that government engage in, encourage, or facilitate the production or distribution of illicit narcotic and psychotropic drugs and other controlled substances?

(G) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and energetically sought to bring the perpetrators of such offense or offenses to justice?

(H) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

(I) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

(J) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

(K) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed extradition requests relating to narcotics trafficking made by other countries?

(4) CONGRESSIONAL REVIEW.—Paragraph (1) shall apply without regard to paragraph (2) if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under paragraph (2), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

(5) [356] DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under paragraph (2) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in paragraph (6)(A) are satisfied—

(A) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

(B) the requirement to vote against multilateral development bank assistance pursuant to paragraph (1)(B) shall apply with respect to that country, without regard to the date specified in that paragraph.

(6) RECERTIFICATION.—(A) Paragraph (5) shall apply to a country until—

(i) the President makes a certification under paragraph (2) with respect to that country, and the Congress does not enact a joint resolution under paragraph (4) disapproving the determination of the President contained in that certification; or

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[356] Sec. 4407(b)(1)(A) of Public Law 100–690, 102 Stat. 4281, struck out an already standing paragraph (5) at this point. It previously read as follows:

"(5) Any country for which the President has not made a certification under paragraph (2) or with respect to which the Congress has enacted a joint resolution disapproving such certification may not receive United States assistance as defined by subsection (i)(4) of this section or the financing described in paragraph (1)(B) of this subsection unless—

"(A) the President makes a certification under paragraph (2) and the Congress does not enact a joint resolution of disapproval; or

"(B) the President submits at any other time a certification of the matters described in paragraph (2) with respect to such country and the Congress enacts, in accordance with the procedures of paragraph (4), a joint resolution approving such certification."

(ii) the President submits at any other time a certification of the matters described in paragraph (2) with respect to such country, and the Congress enacts a joint resolution approving the determination of the President contained in that certification.

(B)(i) Any joint resolution under this subsection [357] shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(i) [354] As used in this section—

(1) the term "legal and law enforcement measures" means—

(A) the enactment and implementation of laws and regulations or the implementation of existing laws and regulations to provide for the progressive control, reduction, and gradual elimination of the illicit cultivation, production, processing, transportation, and distribution of narcotic drugs and other controlled substances; and

(B) the effective organization, staffing, equipping, funding, and activation of those governmental authorities responsible for narcotics control;

(2) the term "major illicit drug producing country" means a country producing five metric tons or more of opium or opium derivative during a fiscal year or producing five hundred metric tons or more of coca or marijuana (as the case may be) during a fiscal year;

(3) the term "narcotic and psychotropic drugs and other controlled substances" has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country of countries concerned;

(4) the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

(A) assistance under this Act (including programs under title IV of chapter 2 of this part);

(B) sales, credits, and guaranties under the Arms Export Control Act;

(C) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(D) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; and

(E) financing under the Export-Import Bank Act of 1945;

except that the term "United States assistance" does not include (i) international narcotics control assistance under this chapter, (ii) disaster relief assistance (including any assistance under chapter 9 of this part), (iii) assistance which involves the provision of food or medicine, (iv) assistance for refugees, (v) assistance under the Inter-American Foundation Act, (vi) [358] assistance from the Child Survival Fund under section 104(c)(2) of this Act, (vii) [359] assistance for narcotics education and awareness activities under section 126(b)(2) of this Act (but any such assistance shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act), or (viii) activities authorized pursuant to the National Security Act of 1947 (50 U.S.C. 410 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or Executive Order Number 12333 (December 4, 1981); and

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[357] Subsec. (B)(i) was amended by sec. 4407(b)(1)(B)(i) and (ii) of Public Law 100–690. It previously read: "Any such joint resolution shall be considered..."

(5) [360] the term 'major drug-transit country' means a country—

(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

(B) through which are transported such drugs or substances; or

(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government.

(j) [354] The Department of State shall encourage the International Narcotics Control Board and the United Nations Commission on Narcotic Drugs to take such actions as are appropriate and necessary to secure from signatory countries to the Single Convention on Narcotic Drugs, 1961, the plans described in this section, and to obtain reports from such countries on their achievements under such plans.

(k) [361](1) For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under subsection (i)(5)(A) and (B) of this section.

(2) Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to paragraph (1) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

(3) Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

(A) which countries appear likely, as of that date, to be determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

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[358] The text of "(vi)" was added by sec. 2005(d) of Public Law 99–570, 100 Stat. 3207–63.

[359] The text of "(vii)" was added by sec. 578(e)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268). The text of (vii) was further amended by sec. 4403 of the International Narcotics Control Act of 1988 (Public Law 100–690, 102 Stat. 4275), which changed "section 126" to "section 126(b)(2)" and added the parenthetical language.

[360] Para. (5) was added by sec. 2005(c)(3) of Public Law 95–570, 100 Stat. 3207–63.

[361] Sec. 481(k) was added by sec. 4405(a) of the International Narcotics Control Act of 1988 (Public Law 100–690, 102 Stat. 4276).

(B) which countries appear likely, as of that date, to be determined to be major illicit drug producing countries for that year.

(4) Each report submitted pursuant to subsection (e) shall discuss—

(A) any changes made, since the notification provided pursuant to paragraph (2), in the numerical standards and other guidelines used in determining which countries were major drug-transit countries under subsection (i)(5)(A) and (B) during the preceding year; and

(B) any changes made, since the notification provided pursuant to paragraph (3)—

(i) in the countries determined to be major drug-transit countries under subsection (i)(5)(A) and (B) during the preceding year; or

(ii) in the countries determined to be major illicit drug producing countries for that year.

Sec. 482.[362] **Authorization.**—(a) [363] (1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $101,000,000 for fiscal year 1989.[364]

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[362] 22 U.S.C. 2291a. Sec. 482, as added by sec. 503 of the Foreign Relations Authorization Act of 1972, was amended and restated by sec. 3 of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 614). It formerly read as follows:

"Sec. 482. Authorization.—To carry out the purposes of section 481, there are authorized to be appropriated to the President $42,500,000 for each of the fiscal years 1974 and 1975, $40,000,000 for the fiscal year 1976, no part of which may be obligated for or on behalf of any country where illegal traffic in opiates has been a significant problem unless and until the President determines and certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that assistance furnished to such country pursuant to the authority in this chapter is significantly reducing the amount of illegal opiates entering the international market, and not to exceed $34,000,000 for the fiscal year 1977. Amounts appropriated under this section are authorized to remain available until expended."

[363] Subsection designation "(a)" and the text of subsec. (b) were added by sec. 5(b) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 731). Subsec. (a) was further amended and restated by sec. 3 of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 701); and further amended by Sec. 402(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3149). The 1980 amendment, in addition to other changes in subsection (a), struck out a paragraph which had earmarked $16 million for Colombia during fiscal year 1980 for a variety of items used in the interdiction of drug traffic.

Subsec. (a) was further amended and restated when sec. 502(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1539) substituted the authorization levels for fiscal years 1982 and 1983 in lieu of the figure for fiscal year 1981 and deleted a paragraph limiting the fiscal year 1981 U.S. contribution to the U.N. Fund for Drug Abuse Control to $3,000,000 or 50 percent of total contributions, whichever is less.

Subsec. (a) was further amended when sec. 4201 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4267) set the fiscal year 1989 authorization level and struck out the following:

"In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President $45,000,000 for the fiscal year to 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress a detailed plan for the expenditure of those funds, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds. Of the funds authorized to be appropriated by the preceding sentence, not less that $10,000,000 shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under this chapter. These funds shall be used primarily for aircraft which will be based in Latin America for use for narcotics control eradication and interdiction efforts throughout the region. These aircraft shall be used solely for narcotics control, eradication, and interdiction efforts."

Para. (3) subsec. (a), added by sec. 614 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 231), was struck out by the International Narcotics Control Act of 1988. It previously read as follows:

"(3) Funds authorized to be appropriated by this section for fiscal year 1986 and for fiscal year 1987 may be used for a contribution to the United Nations Fund for Drug Abuse Control only if that organization includes in its crop substitution projects a plan for cooperation with the law enforcement forces of the host country."

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

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[364] Sec. 4201 of the International Narcotics Control Act of 1988 (Public Law 100–690, 102 Stat. 4267) added the authorization for fiscal year 1989. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) also appropriated the following for "International Narcotics Control":

"For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $101,000,000: *Provided*, That not less than [$15,000,000 of the funds appropriated under this heading shall be available for narcotics interdiction and control programs for Bolivia: *Provided further*, That in addition to amounts made available pursuant to the previous proviso, not less than–Public Law 100–690 repealed this proviso] $7,000,000 of the funds appropriated under this heading shall be available for Latin America regional programs: *Provided further*, That in carrying out the provisions of section 481, increased emphasis should be placed on (1) further intensifying United States efforts in the eradication and interdiction of illicit narcotics, and (2) seeking international cooperation on narcotics enforcement matters such as in the areas of extradition treaties, mutual legal assistance to combat money laundering, sharing of evidence, and other initiatives for cooperative narcotics enforcement efforts."

* * * * * * *

"NARCOTICS CONTROL PROGRAM

"SEC. 578. (a)(1) Of the funds appropriated by this Act under the heading 'Economic Support Fund' $61,000,000 shall be made available only for Bolivia, Ecuador, Jamaica, and Peru; but not more than $25,000,000 shall be available to any one country.

"(2) Of the funds appropriated by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 (relating to the military assistance program) $16,500,000 shall be made available only for Bolivia, Ecuador, Jamaica, and Colombia, but not more than $5,000,000 shall be available for any one country.

"(3) Of the funds appropriated by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $3,500,000 shall be made available in accordance with the general authorities contained in section 481(a) of the Foreign Assistance Act of 1961, only for the procurement of weapons or ammunition for foreign law enforcement agencies, and paramilitary units organized for the specific purposes of narcotics enforcement, for use in narcotics control, eradication, and interdiction efforts, notwithstanding section 482(b) of such Act: *Provided*, That funds made available under this paragraph shall be made available only for Bolivia, Peru, Colombia, Ecuador, and for the regional air wing pursuant to sections 482 and 484 of the Foreign Assistance Act of 1961, and shall be in addition to amounts earmarked for the countries contained in paragraph (2) of this subsection.

"(4) Funds made available under this subsection shall be available for obligation consistent with the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control) except as provided in paragraph (3) of this subsection.

"(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1988, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

"(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

"(d) If any funds appropriated by this Act for 'Economic Support Fund', 'Military Assistance', 'International Military Education and Training', or 'Foreign Military Credit Sales' are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking, those funds shall be reprogrammed for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking: *Provided*, That any such reprogramming shall be subject to the notification procedures of the Committees on Appropriations.

"(e)(1) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs), of the Agency for International Development, and up to $15,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

"(2) * * *

Continued

(b) [363] Funds authorized to be appropriated by this section shall not be made available for the procurement of weapons or ammunition under this chapter.

(c) [365] Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, section 508 of the General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962, and section 105 of the Agricultural Trade Development and Assistance Act of 1954, up to the equivalent of $10,000,000 in currencies or credits of the Government of Pakistan held by the United States shall, to such extent as may be provided in an appropriation Act, be available to the President for the fiscal year 1981 (and shall remain available until expended) to carry out the purposes of section 481 through assistance to the Government of Pakistan. Notwithstanding any other provision of law, the availability or expenditure of such foreign currencies shall not affect or reduce appropriations otherwise available to carry out the administration of the international narcotics control program.

(d) [366] Assistance may be provided under this chapter to a foreign country only if the country provides assurances to the President, and the President is satisfied, that the country will provide at least 25 percent of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. The costs borne by the country may include "in-kind" contributions.

Sec. 483.[367] **Prohibition on Use of Foreign Assistance for Reimbursements for Drug Crop Eradications.**—Funds made available to carry out this Act may not be used to reimburse persons whose illicit drug crops are eradicated.

Sec. 484. [368] **Retention of Title to Aircraft.**—Any aircraft which, at any time after the enactment of this section, are made available to a foreign country under this chapter, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

Sec. 485.[368] **Records of Aircraft Use.**—(a) REQUIREMENT TO MAINTAIN RECORDS.—The Secretary of State shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

"(f) In order to maximize the participation of other countries in the effort to promote international narcotics control, the Secretary of State is directed to urge the United Nations Fund for Drug Abuse Control to develop a more comprehensive program for enlisting greater multilateral support for coca control programs and related development activities in South America."

Authorizations under sec. 482 during recent years included the following: fiscal year 1975—$42,500,000; fiscal year 1976—$40,000,000; fiscal year 1977—$34,000,000; fiscal year 1978—$39,000,000; fiscal year 1979—$40,000,000; fiscal year 1980—$51,758,000; fiscal year 1981—$38,573,000; fiscal year 1982—$37,700,000; fiscal year 1983—$37,700,000; fiscal year 1984—$47,000,000; fiscal year 1985—no authorization. Sec. 602 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 228), added the authorizations for fiscal years 1986 ($57,529,000) and 1987 ($75,445,000). The authorization amount for 1987 was subsequently amended by sec. 401 of Public Law 99-529 and by sec. 2002(1) of Public Law 99-570 (100 Stat. 3207-60).

[365] Subsec. (c) was added by sec. 402(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3149).

[366] Subsec. (d) was added by sec. 608 of Public Law 99-83, 99 Stat. 229.

[367] Sec. 483 was added by sec. 609 of Public Law 99-83, 99 Stat. 230.

[368] Secs. 484 and 485 were added by sec. 2003 of Public Law 99-570, 100 Stat. 3207-61.

(b) CONGRESSIONAL ACCESS TO RECORDS.—The Secretary of State shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate .

Sec. 486.[369] Reallocation of Funds Withheld from Countries Which Fail to Take Adequate Steps to Halt Illicit Drug Production or Trafficking.

(a) ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(1) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

(2) SECURITY ASSISTANCE.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional security assistance for those countries.

(b) DEFINITION OF SECURITY ASSISTANCE.—As used in this section, the term "security assistance" means assistance under chapter 2 of part II of this Act (relating to the grant military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales financing).

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[369] 22 U.S.C. 2291e. Sec. 486 was added by sec. 4206(a) of the International Narcotics Control Act of 1988 (Public Law 100–690, 102 Stat. 4270). Sec. 4206(b) of the same act stipulated the following: "(1) The amendment made by subsection (a) of this section supersedes section 578(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461).

"(2) Funds may be transferred pursuant to paragraph (1) of section 486(a) of the Foreign Assistance Act of 1961 (as enacted by this section) notwithstanding section 514 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (as amended by section 589 of that Act), relating to transfers between accounts."

Sec. 487. [370] **Prohibition on Assistance to Drug Traffickers.**

(a) PROHIBITION.—The President shall take all reasonable steps to ensure that assistance under this Act and the Arms Export Control Act is not provided to or through any individual or entity that the President knows or has reason to believe—

(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating narcotic or psychotropic drugs or other controlled substances (as defined in section 481(i)(3) of this Act); or

(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance.

(b) REGULATIONS.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

(c) CONGRESSIONAL REVIEW OF REGULATIONS.—Regulations issued pursuant to subsection (b) shall be submitted to the Congress before they take effect.

Sec. 488. [371] **Prohibition on Use of Narcotics Control Assistance to Acquire Real Property.**

Funds made available to carry out this chapter may not be used to acquire (by purchase, lease, or other means) any real property for use by foreign military, paramilitary, or law enforcement forces.

Sec. 489. [372] **Permissible Uses of Aircraft and Other Equipment.**

(a) IN GENERAL.—The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this chapter are used only in ways that are consistent with the purposes for which such equipment was made available.

(b) REPORTS.—In the reports submitted pursuant to subsection (e), the President shall discuss—

(1) any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this chapter, and

(2) the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

(c) REGULATIONS.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

(d) CONGRESSIONAL REVIEW OF REGULATIONS.—Regulations issued pursuant to subsection (c) shall be submitted to the Congress before they take effect.

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[370] 22 U.S.C. 2291f. Sec. 487 was added by sec. 4503 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4285).

[371] 22 U.S.C. 2291g. Sec. 488 was added by sec. 4505 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4285).

[372] 22 U.S.C. 2291h. Sec. 489 was added by sec. 4507 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4286).

Chapter 9—International Disaster Assistance[373]

Sec. 491.[374, 375] **Policy and General Authority.**—(a) The Congress, recognizing that prompt United States assistance to alleviate human suffering caused by natural and manmade disasters is an important expression of the humanitarian concern and tradition of the people of the United States, affirms the willingness of the United States to provide assistance for the relief and rehabilitation of people and countries affected by such disasters.

(b) Subject to the limitations[376] in section 492, and notwithstanding any other provision of this or any other Act, the President is authorized to furnish assistance to any foreign country, international organization, or private voluntary organization,[377] on such terms and conditions as he may determine, for international disaster relief and rehabilitation, including assistance relating to disaster preparedness, and to the prediction of, and contingency planning for, natural disasters abroad.

(c) In carrying out the provisions of this section the President shall insure that the assistance provided by the United States shall, to the greatest extent possible, reach those most in need of relief and rehabilitation as a result of natural and manmade disasters.

Sec. 492.[378] **Authorization.**—(a)[379] There are authorized to be appropriated to the President to carry out section 491, $25,000,000 for the fiscal year 1986 and $25,000,000 for the fiscal year 1987.[380]

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[373] Sec. 101(1) of Public Law 94-161 (89 Stat. 849) substituted chapter heading "International Disaster Assistance" in lieu of "Refugee Relief Assistance".

[374] Former sec. 491, which was added by sec. 109 of the FA Act of 1971, was repealed by sec. 101(2) of Public Law 94-161 (89 Stat. 849). It formerly read as follows:

"Sec. 491. Refugee Relief Assistance.—There is authorized to be appropriated to the President for the fiscal year 1972, in addition to funds otherwise available for such purposes, not to exceed $250,000,000, to remain available until expended, for use by the President in providing assistance for the relief and rehabilitation of refugees from East Pakistan and for humanitarian relief in East Pakistan. Such assistance shall be distributed, to the maximum extent practicable, under the auspices of and by international institutions and relief agencies or United States voluntary agencies."

[375] 22 U.S.C. 2292. Sec. 491 was added by sec. 101(3) of Public Law 94-161 (80 Stat. 849).

[376] The words "on appropriations" which previously appeared at this point, were struck out by sec. 404(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3150).

[377] The words, "international organization, or private voluntary organization," were substituted in lieu of "or international organization" by Sec. 118(a) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 953).

[378] 22 U.S.C. 2292a. Sec. 492 was added by sec. 101(3) of Public Law 94-161 (89 Stat. 849).

[379] The subsection designation "(a)" and a new subsec. (b) were added by sec. 404(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3150).

[380] The authorization figures for fiscal years 1986 and 1987 were substituted by sec. 404 of the International Security and Development Cooperation Act of 1985. (Public Law 99-83, 99 Stat. 219). Authorizations under Sec. 492 in recent years included the following: fiscal year 1979—$25,000,000; fiscal year 1980—$21,800,000; fiscal year 1981—$25,000,000; fiscal year 1982—$27,000,000; fiscal year 1983—$27,000,000; fiscal year 1984—$25,000,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "International Disaster Assistance":

"For necessary expenses to carry out the provisions of section 491, $25,000,000, to remain available until expended: *Provided*, That not less the [sic] $500,000 of the funds appropriated under this heading may be made available for assistance for children who have become orphans as a result of natural disasters."

Amounts appropriated under this section are authorized to remain available until expended.[381]

(b)[379] In addition to amounts otherwise available to carry out this chapter, up to $50,000,000 in any fiscal year may be obligated against appropriations under this part (other than this chapter) for use in providing assistance in accordance with the authorities and general policies of section 491. Amounts subsequently appropriated under this chapter with respect to a disaster may be used to reimburse any appropriation account against which obligations were incurred under this subsection with respect to that disaster.

Sec. 493.[382] **Disaster Assistance—Coordination.**—The President is authorized to appoint a Special Coordinator for International Disaster Assistance whose responsibility shall be to promote maximum effectiveness and coordination in responses to foreign disasters by United States agencies and between the United States and other donors. Included among the Special Coordinator's responsibilities shall be the formulation and updating of contingency plans for providing disaster relief.

Sec. 494.[383] **Disaster Relief Assistance.**—There is authorized to be appropriated, in addition to other sums available for such purposes, $65,000,000 for use by the President for disaster relief and emergency recovery needs in Pakistan, and Nicaragua, under such terms and conditions as he may determine, such sums to remain available until expended.

Sec. 494A.[384] **Famine and Disaster Relief to Drought-Stricken African Nations.**—* * * [Repealed—1978]

Sec. 494B.[385] **African Development Program.**—* * * [Redesignated—1977]

Sec. 495.[386] **Cyprus Relief and Rehabilitation.**—The President is authorized to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other needy people in Cyprus. There is authorized to be appropriated for the purposes of this section, in addition to amounts otherwise available for such purposes, $40,000,000.[387] Such amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policy and general authority contained in section 491.

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[381] A sentence which called for a quarterly report on the programming and obligation of funds under Sec. 492 and had previously appeared at this point, was struck by Sec. 118(b)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 953).

[382] 22 U.S.C. 2292b, Sec. 493 was added by Sec. 101(3) of Public Law 94–161 (89 Stat. 849).

[383] 22 U.S.C. 2292c. Former Sec. 452, which was added by Sec. 2(2) of the Foreign Disaster Assistance Act of 1974 (Public Law 93–333), was redesignated as Sec. 494 by Sec. 101(4) of Public Law 94–161 (89 Stat. 849).

[384] Sec. 494A, which was originally added as sec. 639A by the FA Act of 1973 and subsequently redesignated as sec. 494A by Public Law 94–161 (89 Stat. 849), was repealed by Sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 961).

[385] Sec. 494B, as originally added as sec. 639B of this Act by the FA Act of 1973 and later redesignated as sec. 494B in 1975, was subsequently redesignated as sec. 120 (Sahel Development Program—Planning) by sec. 115 of Public Law 95–88 (91 Stat. 539).

[386] 22 U.S.C. 2292f. Sec. 495 was added by sec. 101(8) of Public Law 94–161 (89 Stat. 849).

[387] Sec. 402 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329, 90 Stat. 757) substituted "$40,000,000" in lieu of "$30,000,000".

FA Appropriations Act, 1976: "Cyprus relief and rehabilitation: For necessary expenses to carry out the provisions of section 495, $25,000,000."

For "Cyprus relief and rehabilitation" for the period July 1, 1976, through September 30, 1976, $5,000,000.

Sec. 495A.[388] **Guatemala Relief and Rehabilitation.**—* * * [Repealed—1978]

Sec. 495B.[389] **Italy Relief and Rehabilitation.**—(a) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated $25,000,000 for the fiscal year 1976 to furnish assistance under this chapter for the relief and rehabilitation of the people who have been victimized by the recent earthquake in Italy. Amounts appropriated under this section are authorized to remain available until expended.

(b) [390] There are authorized to be appropriated to the President $30,000,000 for the fiscal year 1978 for relief, rehabilitation, and reconstruction assistance, in accordance with the provisions of section 491 and on such terms and conditions as he may determine, for the people who have been victimized by the recent earthquakes in Italy. Amounts appropriated under this subsection are authorized to remain available until expended.

(c) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Italy may be charged to the appropriations authorized under this section.

(d) [391] (1) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering arising from the earthquakes in southern Italy in late 1980. Accordingly, there are authorized to be appropriated to the President, in addition to amounts otherwise available for such purpose, $50,000,000 for the fiscal year 1981 for relief, rehabilitation, and reconstruction assistance for the victims of those earthquakes. Such assistance shall be provided in accordance with the policies and general authorities of section 491 and on such terms and conditions as the President may determine.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

(3) Obligations incurred against other appropriations or accounts for the purpose of providing relief, rehabilitation, and reconstruc-

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[388] Sec. 495A, as added by Public Law 94-276 (90 Stat. 397), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 961).

[389] 22 U.S.C. 2292h. Sec. 495B was added by sec. 415 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 761).

[390] Sec. 120 of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 541) redesignated subsec. (b) as subsec. (c) and added this new subsec. (b).

FA Appropriations Act, 1978:

"Italy relief and rehabilitation assistance: For necessary expenses to carry out the provisions of section 495B, $25,000,000."

[391] Subsec. (d) was added by Public Law 96-525 (94 Stat. 3043).

The full $50,000,000 authorized in this subsection for Italian earthquake disaster assistance was appropriated by Public Law 96-536, the continuing resolution providing foreign aid funds for fiscal year 1981. This $50,000,000 was designated as an earmarking out of the total of $73,000,000 appropriated in fiscal year 1981 for international disaster assistance. The FA Appropriations, 1982, also provided that of the $27,000,000 made available under sec. 491, "not less than $10,000,000 shall be used for earthquake relief and reconstruction in southern Italy." The FA Appropriations Act, 1984 (sec. 101(b)(1) of the Further Continuing Appropriations Act, 1984) further provided that out of the $25,000,000 made available under sec. 491, "$10,000,000 shall be used only for earthquake relief and reconstruction in southern Italy, which amount may be derived either from amounts appropriated to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 or from up to $10,000,000 of amounts heretofore appropriated pursuant to chapter 4 of part II of such Act for Syria which are, if deobligated, hereby continued available for the purposes of section 491 or for other programs for Italy consistent with sections 103 through 106 of such Act."

tion assistance for the victims of the late 1980 earthquakes in southern Italy may be charged to appropriations, enacted after those obligations were incurred, for assistance for that purpose under this chapter.

Sec. 495C.[392] **Lebanon Relief and Rehabilitation.**—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from the civil strife in Lebanon and to restore the confidence of the people of Lebanon, authorizes the President to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other needy people in Lebanon.

(b) There is authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $20,000,000, which amount is authorized to remain available until expended.[393]

(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Lebanon may be charged to the appropriations authorized under this section.

(e)[394] * * * [Repealed—1978]

Sec. 495D.[395] **Romanian Relief and Rehabilitation.**—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from recent earthquakes in Romania, authorizes the President to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other earthquake victims in Romania.

(b) There are hereby authorized to be appropriated to the President for the fiscal year 1977, notwithstanding any other provisions of this Act, in addition to amounts otherwise available for such purposes, not to exceed $20,000,000, which amount is authorized to remain available until expended.[396]

(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Romania may be charged to the appropriations authorized under this section.

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[392] 22 U.S.C. 2292i. Sec. 495C was added by sec. 416 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 762).

[393] FA Appropriations Act, 1977: "For necessary expenses to carry out the provisions of section 495C, $20,000,000."

[394] Subsec. (e), which called for a quarterly report on programing and obligation of funds under sec. 495C and had previously appeared at this point, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 959).

[395] 22 U.S.C. 2292j. Sec. 495D was added by Public Law 95-21 (91 Stat. 48).

[396] FA Appropriations Act, 1978:

"Sec. 601. For expenses necessary to carry out the provisions of section 495D of the Foreign Assistance Act of 1961, as amended, $13,000,000 for the fiscal year 1977 for Romanian relief and rehabilitation assistance, to remain available until expended."

(e)[397] * * * [Repealed--1981]

(f) Nothing in this section shall be interpreted as endorsing any measure undertaken by the Government of Romania which would suppress human rights as defined in the Conference on Security and Co-operation in Europe (Helsinki) Final Act and the United Nations Declaration on Human Rights, or as constituting a precedent for or commitment to provide United States development assistance to Romania, and the Romanian Government shall be so notified when aid is furnished under this section.

Sec. 495E.[398] **Turkey Relief, Rehabilitation, and Reconstruction.**—The President is requested to use up to $10,000,000 of the funds made available under section 492 of this Act to provide relief, rehabilitation, and reconstruction assistance to the victims of the recent earthquakes in Turkey.

Sec. 495F.[399] **African Rehabilitation and Resettlement.**—(a) The Congress recognizes that United States assistance is necessary to help developing countries in Africa meet the longer term rehabilitation and resettlement needs of displaced persons and other innocent victims of civil strife. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for the longer term rehabilitation and resettlement needs of such victims. Funds for this purpose should be used to assist African governments in providing semipermanent housing, potable water supply systems, and sanitary facilities which are generally not provided by existing refugee relief agencies.

(b) There are authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $15,000,000 for the fiscal year 1981.[400]

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[397] Subsec. (e), which had required a quarterly report from the President on the programing and obligation of funds under this section, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[398] 22 U.S.C. 2292k. Sec. 495E was originally added as sec. 495D by sec. 121 of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 541). It was redesignated as sec. 495E by sec. 119(1) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 953).

[399] 22 U.S.C. 2292l. Sec. 495F, as added by sec. 119(2) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 953), was amended and restated by sec. 405 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3150). It formerly read as follows:

"Sec. 495F. Assistance to African Refugees.—The President is authorized to furnish assistance, on such terms and conditions as he may determine, exclusively for the relief and rehabilitation of African refugees and other needy people located in Africa. There is authorized to be appropriated for the fiscal year 1980 for purposes of this section in addition to amounts otherwise available for such purposes, $14,920,000, which amount is authorized to remain available until expended. Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491."

[400] Authorizations under sec. 495F during recent years included the following: fiscal year 1979—$15,000,000; fiscal year 1980—$14,920,000.

During fiscal year 1981, foreign assistance programs operated pursuant to a series of continuing resolutions. The last continuing resolution (H.J. Res. 644, Public Law 96-536) provided (with several exceptions) such amounts as may be necessary for continuing projects or activities "which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the rate which would have been provided under the terms of the conference report (House Report 96-787), and in accordance with associated agreements stated in the Joint Explanatory Statements of the Committee of Conference, accompanying H.R. 4473 * * *" (this conference report was never approved by Congress). H.R. 4473 provided the following: "Assistance to African refugees: For necessary expenses to carry out the provisions of section 495F, $14,250,000: *Provided*, That these funds shall be transferred to the Office of Refugee Programs of the Department of State for obligation and expenditure."

Amounts appropriated under this subsection are authorized to remain available until expended.

(c) Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.

Sec. 495G.[401] **Special Caribbean Hurricane Relief Assistance.**—The President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief and reconstruction in the Caribbean to assist in alleviating the human suffering caused by recent hurricanes in that region. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section $25,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended.[402] Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.

Sec. 495H.[403] **Cambodian Disaster Relief Assistance.**—(a) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering arising from famine and disease in Cambodia. Accordingly, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for disaster relief to alleviate the suffering of the victims of famine and disease in Cambodia. Assistance provided under this section shall be for humanitarian purposes and limited to the civilian population, with emphasis on providing food, medicine and medical care, clothing, temporary shelter, transportation for emergency supplies and personnel, and similar assistance to save human lives.

(b) Assistance provided under this section or any other provision of law to alleviate the human suffering caused by famine and disease in Cambodia shall be provided, to the maximum extent practicable, through international agencies and private voluntary organizations such as (among others) the World Relief Committee, World Medical Missions, Inc., Cama Services, World Vision, Food for the Hungry, Thailand Baptist Mission, Catholic Relief Services, Oxfam, and the International Rescue Committee.

(c)(1) In providing assistance under this section, the President shall satisfy himself that adequate procedures have been established to ensure that such assistance reaches the innocent victims of famine and disease for whom it is intended. Such procedures shall include end use monitoring of deliveries on a periodic basis by individuals having freedom of movement where the assistance is being distributed within Cambodia.

(2)[404] * * * [Repealed—1981]

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[401] 22 U.S.C. 2292m. Sec. 495G was added by Public Law 96-109 (93 Stat. 842). Such Act also stated that priority should be given to furnishing agricultural commodities under Public Law 480 to this hurricane affected area.

[402] The Supplemental Appropriation and Rescission Bill, 1980 (Public Law 96-304, 94 Stat. 873) contained $10 million intended for special Caribbean hurricane disaster relief.

[403] 22 U.S.C. 2292n. Sec. 495H was added by sec. 2 of Public Law 96-110 (93 Stat. 843). Sec. 4 of such Act also required a report from the President by Jan. 12, 1980 regarding total costs of the U.S. Government and State and local governments of domestic and foreign assistance to refugees during fiscal years 1980 and 1981. Subsequently, sec. 1011(a)(4) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1061) repealed sec. 4 of Public Law 96-110.

[404] Par. (2), which had required a report by the President that adequate procedures have been established ensure that the assistance provided under this section is reaching the innocent vic-

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(d)(1) In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for purposes of this section $30,000,000 for the fiscal year 1980, which amount is authorized to remain available until expended.[405]

(2) Obligations incurred, prior to the enactment of appropriations to carry out this section, against other appropriations or accounts for the purpose of alleviating the human suffering caused by famine and disease in Cambodia may be charged to the appropriations authorized by paragraph (1) of this subsection.

(3) The President may exercise the authority of section 610(a) of this Act (without regard to the 20 percent limitation contained in that section on increases in accounts) in order to transfer, for use in carrying out this section, up to $30,000,000 of the funds made available for the fiscal year 1980 to carry out other provisions of this Act.

(4) Priority shall be given in allocating assistance under the Agricultural Trade Development and Assistance Act of 1954 to furnishing agricultural commodities for use in carrying out this section.

(e) Assistance under this section shall be provided in accordance with the policies and utilizing the general authorities provided in section 491.

Sec. 495I.[406] Assistance for Displaced Persons in Central America.—(a)(1) The Congress recognizes that prompt United States assistance is necessary to help meet the basic human needs of persons displaced by strife in El Salvador. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to help alleviate the suffering of these displaced persons. Assistance provided under this section shall be for humanitarian purposes, with emphasis on the provision of food, medicine, medical care, and shelter and, where possible, implementation of other relief and rehabilitation activities. The Congress encourages the use, where appropriate of the services of private and voluntary organizations and international relief agencies in the provision of assistance under this section.

(2) The Congress understands that the country of Belize has expressed interest and willingness in the resettlement in its territory of Haitian nationals who desire to settle in Belize. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to assist the Government of Belize in the resettlement of Haitian nationals in the national territory of Belize.

(b) There are authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $5,000,000 for the fiscal year 1982 and

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tims of famine and disease for whom it is intended, was repealed by sec. 734(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). Such report was submitted on February 11, 1980.

[405] The Supplemental Appropriation and Rescission Bill, 1980 (Public Law 96-304, 94 Stat. 873) included $30 million intended for Cambodian Disaster Relief Assistance.

[406] 22 U.S.C. 2292o. Sec. 4951 was added by sec. 504 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1540).

$5,000,000 for the fiscal year 1983.[407] Amounts appropriated under this section are authorized to remain available until expended.

(c) Assistance under this section shall be provided in accordance with the policies and utilizing the general authorities provided in section 491.

Sec. 495J.[408] Lebanon Emergency Relief, Rehabilitation, and Reconstruction Assistance.—(a) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering and resettlement needs of the innocent victims of recent strife in Lebanon. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for the relief, rehabilitation, and reconstruction needs of such victims. Assistance provided under this section shall emphasize the provision of food, medicine, clothing, shelter, and water supply systems, and similar efforts to ameliorate the suffering of the people in Lebanon.

(b) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $50,000,000 to carry out this section. Amounts appropriated under this subsection are authorized to remain available until expended.

(c) Assistance under this section shall be furnished in accordance with the policies and general authorities contained in section 491.

Sec. 495K.[409] African Famine Assistance.—

(d) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance for famine relief, rehabilitation, and recovery in Africa. Assistance under this section shall be provided for humanitarian purposes and shall be provided on a grant basis. Such assistance shall include—

(1) relief, rehabilitation, and recovery projects to benefit the poorest people, including the furnishing of seeds for planting,

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[407] FA Appropriations, 1982, provided that out of the $473 million in funds for migration and refugee assistance during fiscal year 1982, "$5,000,000 of this amount shall be used for assistance for persons displaced by strife in El Salvador as provided in H.R. 3566 as reported May 19, 1981." Under the provisions of the Further Continuing Appropriations Act, 1983 (Public Law 97-377), which continued funding for foreign assistance at the rates and under the terms and conditions provided in the FA Appropriations Act, 1982, with exceptions, no prior year earmarking of funds under the "Migration and Refugee Assistance" account would apply.

[408] 22 U.S.C. 2292p. Sec. 495J was added by Public Law 97-208, 96 Stat. 138. The Supplemental Appropriations Act, 1982 (Public Law 97-257, 96 Stat. 818 at 833) included the following:

"LEBANON EMERGENCY RELIEF

"(TRANSFER OF FUNDS)

"For expenses necessary to carry out the provisions of section 495J of the Foreign Assistance Act of 1961, $50,000,000 which shall be derived by transfer from the Department of State, 'Migration and Refugee Assistance', to remain available until expended: *Provided*, That of such amount not less than $10,000,000 shall be available only for the America University of Beirut."

[409] 22 U.S.C. 2292q. Sec. 495K was added by sec. 2 of the African Relief and Recovery Act of 1985 (Public Law 99-8, 99 Stat. 21).

The Urgent Supplemental Appropriations, 1985—African Famine Relief (Public Law 99-10, 99 Stat. 27), provided the following amount:

"For an additional amount for international disaster assistance, $137,500,000 for emergency relief and recovery assistance for Africa, to be available only for such purpose and to remain available until March 31, 1986 *Provided*, That the Committee on Appropriations of each House of Congress is notified five days in advance of the obligation of any funds made available under this paragraph, unless the emergency is life threatening and immediate action is necessary.

"OPERATING EXPENSES

"Of the amount appropriated in this Act for 'International disaster' assistance, $2,500,000 shall be transferred to 'Operating expenses of the Agency for International Development' to be used for monitoring food and disaster assistance in Africa."

fertilizer, pesticides, farm implements, farm animals and vaccine and veterinary services to protect livestock upon which people depend, blankets, clothing, and shelter, disease prevention and health care projects, water projects (including water purification and well-drilling), small-scale agricultural projects, and food protection and preservation projects; and

(2) projects to meet emergency health needs, including vaccinations.

(b) USES OF FUNDS.—

(1) PRIVATE AND VOLUNTARY ORGANIZATIONS AND INTERNATIONAL ORGANIZATIONS.—Funds authorized to be appropriated by this section shall be used primarily for grants to private and voluntary organizations and international organizations.

(2) EMERGENCY HEALTH PROJECTS.—A significant portion of the funds authorized to be appropriated by this section shall be used for emergency health projects pursuant to subsection (a)(2).

(3) MANAGEMENT SUPPORT ACTIVITIES.—Of the amount authorized to be appropriated by this section, $2,500,000 shall be transferred to the "Operating Expenses of the Agency for International Development" account. These funds shall be used for management support activities associated with the planning, monitoring, and supervision of emergency food and disaster assistance provided in those countries in Africa described in section 5(a) of the African Famine Relief and Recovery Act of 1985.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts otherwise available for such purpose, there are authorized to be appropriated $137,500,000 for the fiscal year 1985 for use in providing assistance under this section.

(d) POLICIES AND AUTHORITIES TO BE APPLIED.—Assistance under this section shall be furnished in accordance with the policies and general authorities contained in section 491.

Chapter 10—Assistance to Portugal and Portuguese Colonies in Africa Gaining Independence—* * * [Repealed—1985] [410]

Sec. 496.[410] Assistance to Portugal and Portuguese Colonies in Africa Gaining Independence.—* * * [Repealed—1985]

Sec. 497.[411] Balance of Payments Loan for Portugal.—* * * [Repealed—1985]

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[410] Chapter 10 (sec. 496), as added by sec. 53 of the FA Act of 1974, was repealed by sec. 1211(a)(4) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 279).

[411] 22 U.S.C. 2294. Sec. 497, as added by sec. 4 of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 614), was repealed by sec. 1211(a)(4) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 279).

PART II

Chapter 1—Policy [412]

Sec. 501.[413] Statement of Policy.—The Congress of the United States reaffirms the policy of the United States to achieve international peace and security through the United Nations so that armed force shall not be used except for individual or collective self-defense. The Congress hereby finds that the efforts of the United States and other friendly countries to promote peace and security continue to require measures of support based upon the principle of effective self-help and mutual aid. It is the purpose of this part to authorize measures in the common defense against internal and external aggression, including the furnishing of military assistance, upon request, to friendly countries and international organizations. In furnishing such military assistance, it remains the policy of the United States to continue to exert maximum efforts to achieve universal control of weapons of mass destruction and universal regulation and reduction of armaments, including armed forces, under adequate safeguards to protect complying countries against violation and invasion.

The Congress recognizes that the peace of the world and the security of the United States are endangered so long as international communism and the countries it controls continue by threat of military action, by the use of economic pressure, and by internal subversion, or other means to attempt to bring under their domination peoples now free and independent and continue to deny the rights of freedom and self-government to peoples and countries once free but now subject to such domination.

It is the sense of the Congress that an important contribution toward peace would be made by the establishment under the Organization of American States of an international military force.

In enacting this legislation, it is therefore the intention of the Congress to promote the peace of the world and the foreign policy, security, and general welfare of the United States by fostering an improved climate of political independence and individual liberty, improving the ability of friendly countries and international organizations to deter or, if necessary, defeat Communist or Communist-supported aggression, facilitating arrangements for individual and collective security, assisting friendly countries to maintain internal security, and creating an environment of security and stability in the developing friendly countries essential to their more rapid social, economic, and political progress. The Congress urges that all other countries able to contribute join in a common undertaking to meet the goals stated in this part.

It is the sense of the Congress that in the administration of this part priority shall be given to the needs of those countries in danger of becoming victims of active Communist or Communist-supported aggression or those countries in which the internal security is threatened by Communist-inspired or Communist-supported internal subversion.[414]

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[412] Sec. 201(a) of the FA Act of 1963 struck out the words "SHORT TITLE AND" in the chapter heading which formerly read "Short Title and Policy".

[413] 22 U.S.C. 2301. Former sec. 502 was designated sec. 501 by sec. 201(a)(1) of the FA Act of 1967. Former sec. 501, which related to the short title, was repealed by sec. 201(b) of the FA Act of 1963.

Finally, the Congress reaffirms its full support of the progress of the members of the North Atlantic Treaty Organization toward increased cooperation in political, military, and economic affairs. In particular, the Congress welcomes the steps which have been taken to promote multilateral programs of coordinated procurement, research, development, and production of defense articles and urges that such programs be expanded to the fullest extent possible to further the defense of the North Atlantic area.

Sec. 502.[415] Utilization of Defense Articles and Services.—Defense articles and defense services [416] to any country shall be furnished solely for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security,[417] or for the purpose of assisting foreign military forces in less developed friendly countries (or the voluntary efforts of personnel of the Armed Forces of the United States in such countries) to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort.

Sec. 502A.[418] Excess Defense Articles.—Excess defense articles shall be provided whenever possible rather than providing such articles by the procurement of new items.

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[414] This paragraph was added by sec. 201(a)(2) of the FA Act of 1967.

[415] 22 U.S.C. 2302. Former subsec. (a) of sec. 505 was redesignated sec. 502 by sec. 201(d)(1) of the FA Act of 1967.

[416] The words to this point were substituted for "UTILIZATION OF ASSISTANCE.—(a) Military assistance" by sec. 201(d)(2) of the FA Act of 1967.

[417] Sec. 201(c)(1) of the FA Act of 1965 struck out a colon and added the remainder of this section from this point.

[418] 22 U.S.C. 2303. Sec. 502A was added by sec. 12(a) of the FA Act of 1973.

Sec. 502B.[419] **Human Rights.**—(a)(1)[420] The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.

(2)[421] Except under circumstances specified in this section, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights. Security assistance may not be provided to the police, domestic intelligence, or similar law enforcement forces of a country, and licenses may not be issued under the Export Administration Act of 1979[422] for the export of crime control and detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate (when licenses are to be issued pursuant to the Export Administration Act of 1979), that extraordinary circumstances exist warranting provision of such assistance and issuance of such licenses. Assistance may not be provided under chapter 5 of this part to a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that extraordinary circumstances exist warranting provision of such assistance.[423]

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[419] 22 U.S.C. 2304. Sec. 502B, which was added by sec. 46 of the FA Act of 1974, was amended by sec. 301(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 748), and by the Export Administration Amendments Act of 1985 (Public Law 99-64, 99 Stat. 156.) It formerly read as follows:

"Sec. 502B. Human Rights.—It is the sense of Congress that except in extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty, and the security of the person.

"(b) Whenever proposing or furnishing security assistance to any government falling within the provisions of paragraph (a), the President shall advise the Congress of the extraordinary circumstances necessitating the assistance.

"(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of cooperation by such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross and anybody acting under the authority of the United Nations or of the Organization of American States.

"(d) For purposes of this section, 'security assistance' means assistance under chapter 2 (military assistance) or chapter 4 (security supporting assistance) of this part, assistance under part V (Indochina Postwar Reconstruction) or part VI (Middle East Peace) of this Act, sales under the Foreign Military Sales Act, or assistance for public safety under this or any other Act."

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) provided the following:

"HUMAN RIGHTS

"Sec. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights."

[420] Par. (1) was amended and restated by sec. 6(a) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 731).

[421] The words "It is further the policy of the United States that," which previously appeared at this point, were struck by sec. 6(b) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 731).

[422] The reference to the Export Administration Act of 1979 was substituted in lieu of a reference to the Export Administration Act of 1969 by sec. 704 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3157).

(3) In furtherance of paragraphs (1) and (2),[424] the President is directed to formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.

(b) The Secretary of State shall transmit to the Congress, as part of the presentation materials for security assistance programs proposed for each fiscal year, a full and complete report, prepared with the assistance of the Assistant Secretary of State for Human Rights and Humanitarian Affairs, [425] with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of security assistance. Wherever applicable, such report shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization.[426] In determining whether a government falls within the provisions of subsection (a)(3) and in the preparation of any report or statement required under this section, consideration shall be given to—

(1) the relevant findings of appropriate international organizations, including nongovernmental organizations, such as the International Committee of the Red Cross; and

(2) the extent of cooperation by such government in permitting an unimpeded investigation by any such organization of alleged violations of internationally recognized human rights.

(c)(1) Upon the request of the Senate or the House of Representatives by resolution of either such House, or upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the Secretary of State shall, within thirty days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Human Rights and Humanitarian Affairs,[425] with respect to the country designated in such request, setting forth—

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[423] The final two sentences of par. (2) were added by sec. 6 of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 731, 732).

[424] The words "paragraphs (1) and (2)," were substituted in lieu of "the foregoing policy" by sec. 6(e) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 732).

[425] Sec. 109(a)(3) of the Foreign Relations Authorization Act, fiscal year 1978 (Public Law 95-105, 91 Stat. 846) substituted the title designation of Assistant Secretary of State in lieu of Coordinator.

[426] The sentence beginning "Wherever applicable" was added by sec. 127 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1331).

(A) all the available information about observance of and respect for human rights and fundamental freedom in that country, and a detailed description of practices by the recipient government with respect thereto;

(B) the steps the United States has taken to—

(i) promote respect for and observance of human rights in that country and discourage any practices which are inimical to internationally recognized human rights, and

(ii) publicly or privately call attention to, and disassociate the United States and any security assistance provided for such country from, such practices;

(C) whether, in the opinion of the Secretary of State, notwithstanding any such practices—

(i) extraordinary circumstances exist which necessitate a continuation of security assistance for such country, and, if so, a description of such circumstances and the extent to which such assistance should be continued (subject to such conditions as Congress may impose under this section), and

(ii) on all the facts it is in the national interest of the United States to provide such assistance; and

(D) such other information as such committee or such House may request.

(2)(A) A resolution of request under paragraph (1) of this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) The term "certification", as used in section 601 of such Act, means, for the purposes of this subsection, a resolution of request of the Senate under paragraph (1) of this subsection.

(3) In the event a statement with respect to a country is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within thirty days after receipt of such request, no security assistance shall be delivered to such country except as may thereafter be specifically authorized by law from such country unless and until such statement is transmitted.

(4)(A) In the event a statement with respect to a country is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating, restricting, or continuing security assistance for such country. In the event such a joint resolution is adopted, such assistance shall be so terminated, so restricted, or so continued, as the case may be.

(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

(d) For the purposes of this section—

(1) the term "gross violations of internationally recognized human rights" includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the

abduction and clandestine detention of those persons,[427] and other flagrant denial of the right to life, liberty, or the security of person; and

(2) the term "security assistance" means—

(A) assistance under chapter 2 (military assistance) or chapter 4 (economic support fund) [428] or chapter 5 (military education and training) or chapter 6 (peacekeeping operations) or chapter 8 (antiterrorism assistance) of this part; [429]

(B) sales of defense articles or services, extensions of credits (including participations in credits),[430] and guaranties of loans under the Arms Export Control Act; or

(C) any license in effect with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country under section 38 of the Arms Export Control Act.[431]

(e) [432] Notwithstanding any other provision of law, funds authorized to be appropriated under part I of this Act may be made available for the furnishing of assistance to any country with respect to which the President finds that such a significant improvement in its human rights record has occurred as to warrant lifting the prohibition on furnishing such assistance in the national interest of the United States.

(f) [433] In allowing the funds authorized to be appropriated by this Act and the Arms Export Control Act, the President shall take into account significant improvements in the human rights records of recipient countries, except that such allocations may not contravene any other provision of law.

(g) [434] Whenever the provisions of subsection (e) or (f) of this section are applied, the President shall report to the Congress before making any funds available pursuant to those subsections. The report shall specify the country involved, the amount and kinds of assistance to be provided, and the justification for providing the assistance, including a description of the significant improvements which have occurred in the country's human rights record.

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[427] The words "causing the disappearance of persons by the abduction and clandestine detention of those persons," were added by sec. 701(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3156).

[428] The words "economic support fund" were substituted in lieu of "security supporting assistance" by sec. 10(b)(1) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 735).

[429] Sec. 12(b) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 737) added the words "or chapter 6 (peacekeeping operations)" and struck the words "or part VI (assistance to the Middle East) of this Act" which had previously been the final phrase of this paragraph.

The International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations Act, 1984; Public Law 98-151) added the words "or chapter 8 (antiterrorism assistance)". Pursuant to Public Law 98-151, this amendment was enacted as stated in title II of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983.

[430] While the printed slip law did not include a close parentheses in subpar. (B), it is interpreted that such a mark was intended to be inserted at this point.

[431] For text, see page 298.

[432] Subsec. (e) was added by sec. 511 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 380).

[433] Subsec. (f) was added by sec. 4 of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 702).

[434] Subsec. (g) was added by sec. 1201 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 276).

Chapter 2—Military Assistance

Sec. 503.[435] **General Authority.**—(a) The President is authorized to furnish military assistance, on such terms and conditions as he may determine, to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance, by—

(1) acquiring from any source and providing (by loan or grant) any defense article or defense service;

(2) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a non- combatant nature; or

(3)[436] transferring such of the funds appropriated or otherwise made available under this chapter as the President may determine for assistance to a recipient country,[437] to the account in which funds for the procurement of defense articles and defense services under section 21 and section 22 of the Arms Export Control Act have been deposited for such recipient, to be merged with such deposited funds, and to be used solely to meet obligations of the recipient for payment for sales under that Act. Sales which are wholly paid from funds transferred under paragraph (3) or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act[438] shall be priced to exclude the costs of salaries of members of the Armed Forces of the United States (other than the Coast Guard).[438]

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[435] 22 U.S.C. 2311. Sec. 12(b)(1) of the FA Act of 1973 amended sec. 503, which formerly read as follows:

"SEC. 503. GENERAL AUTHORITY.—The President is authorized to furnish military assistance on such terms and conditions as he may determine, to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance by—

"(a) acquiring from any source and providing (by loan or grant) any defense article or defense service;

"(b) making financial contributions to multilateral programs for the acquisition or construction of facilities for collective defense;

"(c) providing financial assistance for expenses incident to participation by the United States Government in regional or collective defense organizations;

"(d) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a noncombatant nature, including those related to training or advice."

[436] Par. (3) was added by sec. 112(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3138).

Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-131), stipulated: "That, after September 30, 1989, none of the funds appropriated under this heading shall be made available for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961". This proviso was subsequently repealed by title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268).

[437] The word "country" was inserted in lieu of the words "specified in section 504(a)(1) of this Act, within the dollar limitations of that section" by sec. 110(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1536).

[438] The last sentence of par. (3) was added by sec. 123(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 205). The language "or from funds . . . Act" and "(other than the Coast Guard)" was added by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 Public Law 100-461, 102 Stat. 2268.

(b) In addition to such other terms and conditions as the President may determine pursuant to subsection (a), defense articles may be loaned thereunder only if—

(1) there is a bona fide reason, other than the shortage of funds, for providing such articles on a loan basis rather than on a grant basis;

(2) there is a reasonable expectation that such articles will be returned to the agency making the loan at the end of the loan period unless the loan is then renewed;

(3) the loan period is of fixed duration not exceeding five years, during which such article may be recalled for any reason by the United States;

(4) the agency making the loan is reimbursed for the loan based on the amount charged to the appropriation for military assistance under subsection (c); and

(5) [439] the loan agreement provides that (A) if the defense article is damaged while on loan, the country or international organization to which it was loaned will reimburse the United States for the cost of restoring or replacing the defense article, and (B) if the defense article is lost or destroyed while on loan, the country or international organization to which it was loaned will pay to the United States an amount equal to the replacement cost (less any depreciation in the value) of the defense article.

(c)(1) In the case of any loan of a defense article or defense service made under this section, there shall be a charge to the appropriation for military assistance for any fiscal year while the article or service is on loan in an amount based on—

(A) the out-of-pocket expenses authorized to be incurred in connection with such loan during such fiscal year; and

(B) the depreciation which occurs during such year while such article is on loan.

(2) The provisions of this subsection shall not apply—

(A) to any particular defense article or defense service which the United States Government agreed, prior to the date of enactment of this subsection, to lend; and

(B) to any defense article or defense service, or portion thereof, acquired with funds appropriated for military assistance under this Act.

Sec. 504.[440] **Authorization.**—(a) [441] (1) There are authorized to be appropriated to the President to carry out the purposes of this

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[439] Par. (5) was amended and restated by sec. 109(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1536). It formerly read as follows:
"(5) arrangements are made with the agency making the loan to be reimbursed in the event such article is lost or destroyed while on loan, such reimbursement being made first out of any funds available to carry out this chapter and based on the depreciated value of the article at the time of loss or destruction."

[440] 22 U.S.C. 2312.

[441] Subsec. (a) was amended and restated by sec. 103 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 195).

Authorizations under sec. 504 in recent years included the following: fiscal year 1977—$235,000,000; fiscal year 1978—$228,900,000; fiscal year 1979—$133,500,000; fiscal year 1980—$110,200,000; fiscal year 1981—$106,100,000; fiscal year 1982—$238,500,000; fiscal year 1983—$238,500,000; fiscal year 1984—$639,700,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

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chapter $805,100,000 for the fiscal year 1986 and $805,100,000 for the fiscal year 1987.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

(b) In order to make sure that a dollar spent on military assistance to foreign countries is as necessary as a dollar spent for the United States military establishment, the President shall establish procedures for programing and budgeting so that programs of military assistance come into direct competition for financial support with other activities and programs of the Department of Defense.

Sec. 505.[442] **Conditions of Eligibility.**—(a) In addition to such other provisions as the President may require, no defense articles or related training or other defense service [443] shall be furnished to any country on a grant basis unless it shall have agreed that—

(1) it will not, without the consent of the President—

(A) permit any use of such articles or related training or other defense service [443] by anyone not an officer, employee, or agent of that country,

(B) transfer, or permit any officer, employee, or agent of that country to transfer such articles or related training or other defense service [443] by gift, sale, or otherwise, or

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Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268), provided the following:

"MILITARY ASSISTANCE

"For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $467,000,000: *Provided*, That of the funds appropriated under this heading not less than $125,000,000 shall be made available only for the Philippines: *Provided further*, That not less than $9,000,000 shall be available for non-lethal military assistance for Guatemala, of which not less than $2,000,000 shall be available only for civic action programs and for the construction of military barracks: *Provided further*, That not less than $15,000,000 shall be available for Kenya: *Provided further*, That if any of the funds appropriated under this heading are made available for Turkey, then not less than $30,000,000 of such funds shall be available for Greece: *Provided further*, That of the funds appropriated under this heading not more than $40,000,000 shall be used for general costs of administering the Military Assistance program: *Provided further*, That any material assistance provided with funds appropriated under this heading for Haiti shall be limited to non-lethal items such as transportation and communications equipment and uniforms: *Provided further*, That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That the proviso under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, prohibiting the use of military assistance funds after September 30, 1989, for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961, is repealed: * * *."

Sec. 4305(b) of Public Law 100–690, 102 Stat. 4273, provided the following:

"(b) INCREASED MILITARY ASSISTANCE.—There are authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program) $15,000,000 as supplemental appropriations for fiscal year 1989, which are authorized to remain available until expended. These funds shall be available only to provide defense articles to the armed forces of Colombia to support their efforts to combat illicit narcotics production and trafficking."

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100–202, 101 Stat. 1329–131), made military assistance funds available for three years, until September 30, 1990. For text, see page 579.

[442] 22 U.S.C. 2314. Former sec. 506 was redesignated sec. 505 by sec. 201(e) of the FA Act of 1967.

[443] Sec. 203(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329, 90 Stat. 735) added the words "or related training or other defense service".

(C) use or permit the use of such articles or related training or other defense service[443] for purposes other than those for which furnished;

(2) it will maintain the security of such articles or related training or other defense service,[443] and will provide substantially the same degree of security protection afforded to such articles or related training or other defense service[443] by the United States Government;

(3) it will, as the President may require, permit continuous observation and review by, and furnish necessary information to, representatives of the United States Government with regard to the use of such articles or related training or other defense service;[443] and

(4) unless the President consents to other disposition, it will return to the United States Government for such use or disposition as the President considers in the best interests of the United States, such articles or related training or other defense service[443] which are no longer needed for the purposes for which furnished.

(b) No defense articles shall be furnished on a grant basis to any country at a cost in excess of $3,000,000 in any fiscal year unless the President determines—

(1) that such country conforms to the purposes and principles of the Charter of the United Nations;

(2) that such defense articles will be utilized by such country for the maintenance of its own defensive strength, or[444] the defensive strength of the free world;

(3) that such country is taking all reasonable measures, consistent with its political and economic stability, which may be needed to develop its defense capacities; and

(4) that the increased ability of such country to defend itself is important to the security of the United States.

(c)[445] The President shall regularly reduce and, with such deliberate speed as orderly procedure and other relevant considerations, including prior commitments, will permit, shall terminate all further grants of military equipment and supplies to any country having sufficient wealth to enable it, in the judgment of the President, to maintain and equip its own military forces at adequate strength, without undue burden to its economy.

(d)[445, 446] (1) Assistance and deliveries of assistance under this chapter to any country shall be terminated as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, the Mutual Security Act of 1954,[447] or any predecessor Foreign Assistance Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (A) by using such articles or services for a purpose not authorized under section 502 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 502, for a purpose not authorized under such agreement; (B) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (C) by failing to maintain the security of such articles or services.

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[444] Sec. 201(b) of the FA Act of 1971 substituted "or" in lieu of "and".

[445] Subsecs. (c) and (d) were added by sec. 201(a) of the FA Act of 1962.

[446] Sec. 304(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 751) amended subsec. (d) which formerly read as follows:

"(d) Any country which hereafter uses defense articles or defense services furnished such country under this Act, the Mutual Security Act of 1954, as amended, or any predecessor foreign assistance Act, in substantial violation of the provisions of this chapter or any agreements entered into pursuant to any of such Acts shall be immediately ineligible for further assistance."

[447] For text, see page 595.

(2)(A) Assistance and deliveries of assistance shall be terminated pursuant to paragraph (1) of this subsection if the President so determines and so states in writing to the Congress, or if the Congress so finds by joint resolution.

(B) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3) Assistance to a country shall remain terminated in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

(4) The authority contained in section 614(a) of this Act may not be used to waive the provisions of this section with respect to further assistance under this chapter.

(e)[448] In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer unless the United States itself would transfer the defense article under consideration to that country.[449] In addition, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.

(f)[448] Effective July 1, 1974, no defense article shall be furnished to any country on a grant basis unless such country shall have agreed that the net proceeds of sale received by such country in disposing of any weapon, weapons system, munition, aircraft, military boat, military vessel, or other implement of war received under this chapter will be paid to the United States Government and shall be available to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.[450] In the case of items which were delivered prior to 1975, the President may waive the requirement that such net proceeds be paid to the United States Government if he determines that to do so is in the national interest of the United States.[451]

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[448] Former subsec. (e), which related to conditions of eligibility, was repealed by Public Law 92-226. New subsecs. (e) and (f) were added by sec. 12(3) of the FA Act of 1973.

[449] Sec. 204(b)(2) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 735) amended sec. 505(e) by striking out the following words after "country": ", and prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred".

(g)[452] (1) It is the policy of the United States that no assistance under this chapter should be furnished to any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this chapter on the basis of race, religion, national origin, or sex.

(2)(A) No agency performing functions under this chapter shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(B) Each contract entered into by any such agency for the performance of any function under this chapter shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(3) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any transaction in which any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the furnishing of assistance under this chapter, or education and training under chapter 5, to any foreign country. Such reports shall include (A) a description of the facts and circumstances of any such discrimination, (B) the response thereto on the part of the United States or any agency or employee thereof, and (C) the result of such response, if any.

(4)(A) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of

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[450] For text, see vol. II, sec. E.

[451] The last sentence of par. (f) was added by sec. 123(b) of the International Security Cooperation and Development Act of 1985 (Public Law 99-83, 99 Stat. 205).

[452] Subsec. (g) was added by sec. 302(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 751).

State for Human Rights and Humanitarian Affairs,[453] with respect to the country designated in such request, setting forth—

(i) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin, or sex, and prevent any such person from participating in a transaction involving the furnishing of any assistance under this chapter or any education and training under chapter 5;

(ii) the response of the United States thereto and the results of such response;

(iii) whether, in the opinion of the President, notwithstanding any such policies or practices—

(I) extraordinary circumstances exist which necessitate a continuation of such assistance or education and training transaction, and, if so, a description of such circumstances and the extent to which such assistance or education and training transaction should be continued (subject to such conditions as Congress may impose under this section), and

(II) on all the facts it is in the national interest of the United States to continue such assistance or education and training transaction; and

(iv) such other information as such committee may request.

(B) In the event a statement with respect to an assistance or training transaction is requested pursuant to subparagraph (A) of this paragraph but is not transmitted in accordance therewith within 60 days after receipt of such request, such assistance or training transaction shall be suspended unless and until such statement is transmitted.

(C)(i) In the event a statement with respect to an assistance or training transaction is transmitted under subparagraph (A) of this paragraph, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such assistance or training transaction.

(ii) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.[454]

(iii) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under subparagraph (A) of this paragraph.

Sec. 506.[455] Special Authority.—(a) If the President determines and reports to the Congress in accordance with section 652 of this Act that—

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[453] Sec. 109(a)(4) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105, 91 Stat. 846) substituted the title designation of Assistant Secretary of State in lieu of Coordinator.

[454] For text, see page 471.

[455] 22 U.S.C. 2318. Former sec. 510 was redesignated sec. 506 by sec. 201(j)(1) of the FA Act of 1967. Sec. 506, as amended by sec. 102 of Public Law 94-329, was further amended and restated by sec. 5(b) of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 702).

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) provided the following:

"Sec. 553. Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or

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(1) an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

(2) the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except this section;

he may direct, for the purposes of this part, the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not to exceed $75,000,000 in any fiscal year.[456]

(b)(1) The authority contained in this section shall be effective for any such emergency only upon prior notification to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Appropriations of each House of Congress.

(2) The President shall keep the Congress fully and currently informed of all defense articles, defense services, and military education and training provided under this section.

(c) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.

Sec. 507.[457] Restrictions on Military Aid to Latin America.— * * * [Repealed—1973]

Sec. 508.[457] Restrictions on Military Aid to Africa.—* * * [Repealed—1973]

Sec. 509.[457] Certification of Recipient's Capability.—* * * [Repealed—1973]

Sec. 510.[458] Restrictions on Training Foreign Military Students.—* * * [Repealed—1976]

Sec. 511.[459] Considerations in Furnishing Military Assistance.— Decisions to furnish military assistance made under this part shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to [460] whether such assistance will—

(1) contribute to an arms race;

(2) increase the possibility of outbreak or escalation of conflict; or

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international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided*, That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished."

[456] The aggregate value of this special authority was increased from $10 million to $50 million by sec. 112(d) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3139). It was subsequently increased from $50 million to $75 million by sec. 110(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1526).

[457] Sec. 12(b)(5) of the FA Act of 1973 repealed secs. 507, 508, and 509.

[458] Sec. 510 was repealed by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 733).

[459] 22 U.S.C. 2321d. Sec. 511 was added by sec. 201(f) of the FA Act of 1971.

[460] Sec. 150(c) of the Foreign Relations Authorization Act, Fiscal Year 1976 (Public Law 94-141) struck out the words "take into account" and inserted in lieu thereof "be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to".

(3) prejudice the development of bilateral or multilateral arms control arrangements.

Sec. 512.[461] **Military Assistance Advisory Groups and Missions.**—* * * [Repealed—1973]

Sec. 513.[462] **Military Assistance Authorizations for Thailand and Laos, and South Vietnam.**—* * * [Repealed—1981]

Sec. 514.[463] **Stockpiling of Defense Articles for Foreign Countries.**—(a) No defense article in the inventory of the Department of Defense which is set aside, reserved, or in any way earmarked or intended for future use by any foreign country may be made available to or for use by any foreign country unless such transfer is authorized under this Act or the Arms Export Control Act, or any subsequent corresponding legislation, and the value of such transfer is charged against funds authorized under such legislation or against the limitations specified in such legislation, as appropriate, for the fiscal period in which such defense article is transferred. For purposes of this subsection, "value" means the acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

(b)(1) The value of defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization) in stockpiles located in foreign countries may not exceed in any fiscal year an amount greater than is specified in security assistance authorizing legislation for that fiscal year.

(2) The value of such additions to stockpiles in foreign countries shall not exceed $77,000,000 for fiscal year 1989.[464]

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[461] Sec. 12(5) of the FA Act of 1973 repealed sec. 512.

[462] Sec. 513, as added by sec. 20(f) of the FA Act of 1971 and amended by sec. 12(6)(B) of the FA Act of 1973 and sec. 12 of the FA Act of 1974, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). Sec. 513 had prohibited military assistance for Thailand (after June 30, 1972), Laos (after June 30, 1974), and South Vietnam (after June 30, 1976) unless the assistance had been authorized under this Act or the Foreign Military Sales Act (now the Arms Export Control Act).

[463] 22 U.S.C. 2321h. The original sec. 514, which concerned special foreign country accounts, was added by sec. 201(f) of Public Law 92-226 (86 Stat. 26). This section was repealed by sec. 12(b) of Public Law 93-189 (87 Stat. 722). This new sec. 514, as added by sec. 15 of Public Law 93-559 (88 Stat. 1799), was amended by sec. 103 of the International Security Assistance and Arms Export Control Act of 1976. It formerly read: "(a) Notwithstanding any other provision of law, no funds, other than funds made available under this chapter or section 401(a) of Public Law 89-367 (80 Stat. 37), or any subsequent corresponding legislation, may be obligated for the purpose of stockpiling any defense article or war reserve material, including the acquisition, storage, or maintenance of any war reserve equipment, secondary items, or munitions, if such article or material is set aside, reserved, or in any way earmarked or intended for future use by any foreign country under this Act or such section.

"(b) The cost of any such article or material set aside, reserved, or in any way earmarked or intended by the Department of Defense for future use by, for, or on behalf of the country referred to in section 401(a)(1) of Public Law 89-367 (80 Stat. 37) shall be charged against the limitation specified in such section or any subsequent corresponding legislation, for the fiscal year in which such article or material is set aside, reserved, or otherwise earmarked or intended; and the cost of any such article or material set aside, reserved or in any way earmarked or intended for future use by, for, or on behalf of any other foreign country shall be charged against funds authorized under this chapter or the fiscal year in which such article or material is set aside, reserved, or otherwise earmarked. No such article or material may be made available to or for use by any foreign country unless such article or material has been charged against the limitation specified in such section, or any subsequent corresponding legislation, or against funds authorized under this chapter, as appropriate."

[464] The stockpile figure for fiscal year 1989 was added by sec. 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268). Figures for recent years include the following: fiscal year 1976—$96,750,000; fiscal year 1977—$125,000,000; fiscal year 1978—$270,000,000; fiscal year 1979—$90,000,000; fiscal year 1980—$95,000,000; fiscal year 1981—$85,000,000; fiscal year 1982—$130,000,000; fiscal year 1983—$125,000,000; fiscal year 1984—$125,000,000; fiscal year 1985—$248,000,000; fiscal year 1986—$360,000,000; fiscal year 1987—$125,000,000; fiscal year 1988—$116,000,000.

(c) Except for stockpiles in existence on the date of enactment of the International Security Assistance and Arms Export Control Act of 1976 [465] and for stockpiles located in the Republic of Korea, Thailand, or [466] countries which are members of the North Atlantic Treaty Organization, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

(d) No defense article transferred from any stockpile which is made available to or for use by any foreign country may be considered an excess defense article for the purpose of determining the value thereof.

(e) The President shall promptly report to the Congress each new stockpile, or addition to an existing stockpile, described in this section of defense articles valued in excess of $10,000,000 in any fiscal year.

Sec. 515.[467] Overseas Management of Assistance and Sales Programs.—(a) In order to carry out his responsibilities for the management of international security assistance programs conducted under this chapter, chapter 5 of this part, and the Arms Export Control Act, the President may assign members of the Armed Forces of the United States to a foreign country to perform one or more of the following functions:

(1) equipment and services case management;

(2) training management;

(3) program monitoring;

(4) evaluation and planning of the host government's military capabilities and requirements;

(5) administrative support;

(6) promoting rationalization, standardization, interoperability, and other defense cooperation measures among members of the North Atlantic Treaty Organization and with the Armed Forces of Japan, Australia, and New Zealand; and

(7) liaison functions exclusive of advisory and training assistance.

(b) Advisory and training assistance conducted by military personnel assigned under this section shall be kept to an absolute minimum. It is the sense of the Congress that advising and training assistance in countries to which military personnel are assigned under this section shall be provided primarily by other personnel who are not assigned under this section and who are detailed for limited periods to perform specific tasks.

(c)(1) The number of members of the Armed Forces assigned to a foreign country under this section may not exceed six unless specifically authorized by the Congress. The President may waive this limitation if he determines and reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, 30 days prior to the introduction of the additional military personnel, that United States national interests require that more than six members of the Armed Forces be assigned under this section to carry out international security assistance programs in a country not specified in this paragraph. Pakistan, Tunisia, El Salvador, Honduras, Colombia,[468] Indonesia, the Republic of Korea, the Philippines, Thailand, Egypt, Jordan, Morocco, Saudi Arabia, Greece, Portugal, Spain, and Turkey are authorized to have military personnel strengths larger than six under this section to carry out international security assistance programs.

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[465] Approved June 30, 1976.

[466] The reference to Thailand was added by title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-147). The reference to the Republic of Korea was added by sec. 6(a)(2) of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 703). Sec. 6 also required the President to submit a report to the Congress by December 31, 1979, regarding the stockpiling authorities for the Republic of Korea.

[467] 22 U.S.C. 2321i. Sec. 515, as amended by sec. 16 of FA Act of 1974, sec. 104 of Public Law 94-329, sec. 7(c) of Public Law 95-92, sec. 9 of Public Law 95-424, sec. 7 of Public Law 95-92, and sec. 114 of Public Law 96-533, was comprehensively amended and restated by sec. 112 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1527).

(2) The total number of members of the Armed Forces assigned under this section to a foreign country in a fiscal year may not exceed the number justified to the Congress for that country in the congressional presentation materials for that fiscal year, unless the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives are notified 30 days in advance of the introduction of the additional military personnel.

(d) Effective October 1, 1982, the entire costs (including salaries of the United States military personnel) of overseas management of international security assistance programs under this section shall be charged to or reimbursed from funds made available to carry out this chapter, other than any such costs which are either paid directly for such defense services under section 21(a) of the Arms Export Control Act [469] or reimbursed from charges for services collected from foreign governments pursuant to section 21(e) and section 43(b) of that Act.[469]

(e) Members of the Armed Forces assigned to a foreign country under this section shall serve under the direction and supervision of the Chief of the United States Diplomatic Mission to that country.

(f) The President shall continue to instruct United States diplomatic and military personnel in the United States missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of United States-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch.

Sec. 516.[470] Modernization of Defense Capabilities of Countries of Nato's Southern Flank.—(a) AUTHORITY TO TRANSFER EXCESS

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[468] Sec. 125 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 205), strikes out the words: "For the fiscal year 1982 and the fiscal year 1983" and substituted in lieu thereof the words "Pakistan, Tunisia, El Salvador, Honduras".

Sec. 4305(a) of Public Law 100–690, 102 Stat. 4273, added "Colombia" after "Honduras".

[469] For text of the Arms Export Control Act, see pages 266 (sec. 21(a)), 268 (sec. 21(e)), and 306 (sec. 43(b)).

[470] 22 U.S.C. 2321j. Sec. 516 was added by sec. 1101 of Public Law 99–661 (100 Stat. 3960). Sec. 516, as previously added by sec. 105 of Public Law 94–329 and amended by sec. 7(b) of Public Law 95–384, sec. 5(c) of Public Law 96–92, and sec. 112(d) of Public Law 96–533, was repealed by sec. 110(d) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1526). Sec. 516 had required the termination of authorities contained in this chapter (except for authorities in secs. 506, 514, and 515) as of September 30, 1982, except to the extent Congress might authorize military assistance in specified amounts for specified countries.

DEFENSE ARTICLES.—Notwithstanding any other provision of law and subject to subsection (b), during the fiscal years 1987, 1988, and 1989,[471] the President may transfer to those member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO which are eligible for United States security assistance and which are integrated into NATO's military structure and to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance,[472] such excess [473] defense articles as the President determines necessary to help modernize the defense capabilities of such countries. Such excess defense [473] articles may be transferred without cost to the recipient countries.

(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess [473] defense articles under this section only if—

(1) the equipment is drawn from excess defense articles will not have an adverse impact on the military readiness of the United States.

(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer; and

(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

(c) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer excess [473] defense articles under this section until 30 days after he has notified the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on the military readiness of the United States.

(d) WAIVER OR REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess [473] defense articles under this section.

(e) DEFINITION.—As used in subsection (a), the term "member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO" means Greece, Italy, Portugal, Spain, and Turkey.

Chapter 3—Foreign Military Sales [474]

Sec. 521.[475] Administration of Sales Programs Involving Defense Articles and Services.—* * * [Repealed—1968]

Sec. 522.[475] Sales from Stock.—* * * [Repealed—1968]

Sec. 523.[475] Procurement of Sales.—[Repealed—1968]

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[471] Sec. 8143 of the Department of Defense Appropriations Act, 1988 (sec. 101(b) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-89) added the year "1989".

[472] Sec. 8143 of the Department of Defense Appropriations Act, 1988 (Public Law 100-202, 101 Stat. 1329-89) added the phrase "and to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance".

[473] Sec. 8143 of the Department of Defense Appropriations Act, 1988 (Public Law 100-202) added the terms "excess" or "excess defense". See also sec. 554 of Public Law 100-461, page 554.

[474] The new chapter heading was added by sec. 201(o)(2) of the FA Act of 1967.

[475] Repealed by sec. 45(a) of the Foreign Military Sales Act, Public Law 90-629.

Sec. 524.[476] **Reimbursements.**—(a)[477] Whenever funds made available for use under this part have been or[478] are used to furnish military assistance on cash or credit terms, United States dollar repayments, including dollar proceeds derived from the sale of foreign currency repayments to any agency or program of the United States Government, receipts received from the disposition of evidences of indebtedness and charges (including fees and premiums) or interest collected[479] shall be credited to a separate fund account[480] and, shall be available until expended solely for the purposes of financing sales and guaranties, including the overhead costs thereof,[481] and, notwithstanding any provision of law relating to receipts and credits accruing to the United States Government, repayment in foreign currency may be used to carry out this part. Such amounts of the appropriations made available under this part (including unliquidated balances of funds heretofore obligated for financing sales and guarantees) as may be determined by the President shall be transferred to, and merged with the separate fund account.[482]

(b)(1) The special fund account established under subsection (a) of this section shall terminate as of the end of June 30, 1968, or on such earlier date as may be selected by the President.

(2) Upon the termination of such fund account pursuant to paragraph (1), all of the assets of such fund account (including loans and other payments receivable) shall be transferred to a special account in the Treasury, which special account shall be available solely for the purpose of discharging outstanding liabilities and obligations of the United States arising out of credit sales agreements entered into, and guaranties issued, under this part, prior to June 30, 1968. Any moneys in such special account in excess of the aggregate United States dollar amount of such liabilities and obligations shall be transferred from time to time to the general fund of the Treasury.

(3)[483] * * * [Repealed—1968]

Sec. 525.[483] **Guaranties.**—* * * [Repealed—1968]

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[476] 22 U.S.C. 2344. Former sec. 508 was redesignated sec. 524 by sec. 201(h)(1) of the FA Act of 1967.

[477] Subsection designation "(a)" and a new subsec. (b) were added by sec. 201(h)(2) of the FA Act of 1967.

[478] The words "have been or" were added by sec. 201(e)(1) of the FA Act of 1965.

[479] The words to this point, beginning with "receipts received from", were added by sec. 201(e)(2) of the FA Act of 1965.

[480] Sec. 201(e)(3) of the FA Act of 1965 substituted the words "a separate fund account" in lieu of "the current applicable appropriation."

[481] Sec. 201(e)(1) of the FA Act of 1965 substituted the words "financing sales and guaranties, including the overhead costs thereof" in lieu of "furnishing further military assistance on cash or credit terms".

[482] The last sentence was added by sec. 201(c) of the FA Act of 1966.

[483] Repealed by sec. 45(a) of the Foreign Military Sales Act, Public Law 90-629. The subject matter of par. (3), relating to arms sales credits, is now covered in sec. 23 of the Arms Export Control Act.

Chapter 4—Economic Support Fund [484]

Note.—Section 202 of the Foreign Assistance Act of 1971 transferred the former Chapter 4 of Part I governing supporting assistance to its present location as Chapter 4 of Part II of the Act. Section 202(b) of the Foreign Assistance Act of 1971 provides as follows:

"Chapter 4 of part I of the Foreign Assistance Act of 1961 is hereby repealed. References to such chapter or any sections thereof shall hereafter be deemed to be references to chapter 4 of part II of the Foreign Assistance Act of 1961, as added by subsection (a) of this section, or to appropriate sections thereof. All references to part I of the Foreign Assistance Act of 1961 shall hereafter be deemed to be references also to chapter 4 of part II, and all references to part II of such Act shall be deemed not to include chapter 4 of such Part II."

In changing the title of chapter 4 from Security Supporting Assistance to Economic Support Fund, Sec. 10(b)(6) of the International Security Assistance Act of 1978 (92 Stat. 735) stated that after September 30, 1978, any reference to security supporting assistance shall be deemed a reference to assistance provided under chapter 4 of part II of this Act.

Sec. 531.[485] Authority.—(a) The Congress recognizes that, under special economic, political, or security conditions, the national interests of the United States may require economic support for countries in amounts which could not be justified solely under chapter 1 of part I. In such cases, the President is authorized to furnish assistance to countries and organizations, on such terms and conditions as he may determine, in order to promote economic or political stability. To the maximum extent feasible, the President shall provide assistance under this chapter consistent with the policy directions, purposes, and programs of part I of this Act.

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[484] Chapter 4, which had been added by the FA Act of 1971 and had been titled "Security Supporting Assistance," was retitled as "Economic Support Fund" and comprehensively amended and restated by sec. 10(a) of the International Security Assistance Act of 1978 (Public Law 95–384, 92 Stat. 733). Sec. 10(b)(6) of the same Act stated that after September 30, 1978, any reference in any act to security supporting assistance shall be considered to be a reference to this chapter.

Sec. 201 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 210), replaced secs. 531 and 532, amended and redesignated secs. 535 as 533, and repealed all other sections regarding earmarking of funds for specific regions or purposes. See page 337 of the International Security and Development Cooperation Act of 1985, (Public Law 99–83, 99 Stat. 210), for use of ESF funds for the Middle East, Cyprus, Portugal, agricultural commodities under commodity import programs, tied aid credit program, and restriction on use of funds for nuclear facilities. In addition, sec. 712 of Public Law 99–83 (99 Stat. 244) added a new section, designated sec. 534 to this chapter.

See also secs. 644–647 of the Export-Import Bank Act Amendments of 1983 (title VI of Public Law 98–166) which establishes a tied aid credit program in the United States Export-Import Bank in order to promote U.S. exports. This program is to be carried out in cooperation with the Agency for International Development and permits the AID Administrator to draw on Economic Support Funds allocated for Commodity Import Programs to finance a tied aid credit activity. See vol. III, sec. I for complete text of secs. 644–647.

See also sec. 206 of the International Security and Development Cooperation Act of 1985 (page 339) which authorizes not less than $50 million in fiscal year 1986 and not less than $100 million in fiscal year 1987 out of the commodity import program portion of the Economic Support Fund for use in a tied aid credit program.

[485] 22 U.S.C. 2346.

(b) The Secretary of State shall be responsible for policy decisions and justifications for economic support programs under this chapter, including determinations of whether there will be an economic support program for a country and the amount of the program for each country. The Secretary shall exercise this responsibility in cooperation with the Administrator of the agency primarily responsible for administering part I of this Act.[486]

(c) As part of the annual presentation materials for foreign assistance submitted to the Congress, the agency primarily responsible for administering this part shall provide a detailed justification for the uses and the purposes of the funds provided under this chapter. Such material shall include, but not be limited to, information concerning the amounts and kinds of cash grant transfers, the amounts and kinds of budgetary and balance-of-payments support provided, and the amounts and kinds of project assistance provided with funds made available under this chapter.

(d) To the maximum extent feasible, funds made available pursuant to this chapter for commodity import programs or other program assistance shall be used to generate local currencies, not less than 50 percent of which shall be available to support activities consistent with the objectives of sections 103 through 106 of this Act, and administered by the agency primarily responsible for administering part I of this Act.

(e) Amounts appropriated to carry out this chapter shall be available for economic programs and may not be used for military or paramilitary purposes.

Sec. 532.[487] **Authorizations of Appropriations.**—(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter—

(1) $2,015,000,000 for the fiscal year 1986 and $2,015,000,000 for the fiscal year 1987 for the following countries signing the Camp David agreement: Israel and Egypt; [488] and

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[486] This responsibility, as it relates to the Administrator, was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[487] 22 U.S.C. 2346a.

[488] The authorization under this chapter during recent years included the following: fiscal year 1979—$1,902,000,000; fiscal year 1980—$1,935,000,000 (plus an $80,000,000 supplemental authorization for Central American Assistance); fiscal year 1981—$2,065,300,000; fiscal year 1982—$2,623,500,000; fiscal year 1983—$2,723,500,000; fiscal year 1984—$3,074,000,000; fiscal year 1985—no authorization; fiscal year 1988--no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for the "Economic Support Fund":

"For necessary expenses to carry out the provisions of chapter 4 of part II, $3,258,500,000: *Provided*, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1988, whichever is later: *Provided further*, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not more than $115,000,000 may be provided as a cash transfer with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total

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level of nonmilitary exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That of the funds appropriated under this heading not less than $215,000,000 shall be available for Pakistan: *Provided further,* That not less than $124,000,000 of the funds appropriated under this heading shall be available for the Philippines: *Provided further,* That not less than $2,500,000 of the funds appropriated under this heading shall be available for Thailand: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be available for Morocco: *Provided further,* That not less than $11,250,000 of the funds appropriated under this heading shall be available for Tunisia: *Provided further,* That not less than $60,000,000 of the funds appropriated under this heading shall be available for Turkey: *Provided further,* That not less than $50,000,000 of the funds appropriated under this heading shall be available for Portugal: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be available for Cyprus: *Provided further,* That of the funds appropriated under this heading up to $35,000,000 but not less than $10,000,000 shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): *Provided further,* That of the funds appropriated under this heading $185,000,000 only shall be available for El Salvador, $80,000,000 only shall be available for Guatemala, $90,000,000 only shall be available for Costa Rica, and not less than $85,000,000 shall be available for Honduras: *Provided further,* That of the funds provided under this heading for Central American countries, not less than $5,000,000 shall be available only to develop energy self-sufficiency, to identify and utilize indigenous resources to improve economic development, and to reduce reliance on imported energy: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Jordan, of which not less than $15,000,000 is for programs in Jordan: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further,* That of the funds appropriated under this heading, not less than $85,750,000 shall be available for Sub-Saharan Africa: *Provided further,* That notwithstanding section 660 of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this heading may be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress: *Provided further,* That $20,000,000 of the funds appropriated under this heading shall be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: *Provided further,* That if funds made available under this heading are provided to a foreign country as cash transfer assistance, that country shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further,* That such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98–1159): *Provided further,* That all local currencies that may be generated with such funds provided as a cash transfer shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: *Provided further,* That at least 15 days prior to obligating any such cash transfer assistance to a foreign country under this heading, the President shall submit a notification to the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by the cash transfer assistance): *Provided further,* That not more than $5,000,000 of the funds made available under this heading may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated under this heading may be used for tied aid credits without the prior approval of the Administrator of the Agency for International Development: *Provided further,* That, except as provided by this Act, none of the funds appropriated under this heading by this Act or the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, shall be made available for tied credits in accordance with any provision of law enacted after May 19, 1988: *Provided further,* That $2,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, only for the independent Polish trade union 'Solidarity' of which $1,000,000 is to support its Social Fund project, and $1,000,000 is to support Solidarity through the AFL–CIO's Free Trade Union Institute to promote democratic activities in Poland: *Provided further,* That not to exceed $2,000,000 of the funds appropriated under this heading shall be made available notwithstanding any other provision of law to the National Endowment for Democracy for the promotion of democracy in Nicaragua: *Provided further,* That these funds are to be administered consistent with the Agreement between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua ('Sapoa Agreement') and the Guatemala Peace Accords of August 7, 1987: *Provided further,* That such assistance (1) shall be provided to internal groups that have renounced violence and support a negotiated settlement to the conflict in Nicaragua, including independent elements of the press, independent labor unions, independent business groups, and independent human rights groups, and (2) may not be provided to any group

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(2) $1,785,000,000 for the fiscal year 1986 and $1,785,000,000 for the fiscal year 1987 for assistance under this chapter for recipients or purposes other than the countries referred to in paragraph (1).[488]

(b) Amounts appropriated to carry out this chapter are authorized to remain available until expended.

Sec. 533.[489] Emergency Assistance.—(a) Of the funds appropriated to carry out this chapter up to $75,000,000 for the fiscal year 1986 and up to $75,000,000 for the fiscal year 1987 may be made available for emergency use under this chapter when the national interests of the United States urgently require economic support to promote economic or political stability.

(b) Notwithstanding any provision of this chapter or of an appropriations act (including a joint resolution making continuing appropriations) which earmarks funds available to carry out this chapter for a specific country or purpose, up to 5 percent of each amount so earmarked may be used to carry out this section.

Sec. 534.[490] Administration of Justice.—(a) The President may furnish assistance under this chapter to countries and organizations, including national and regional institutions, in order to strengthen the administration of justice in countries in Latin America and the Caribbean.

(b) Assistance under this section may only include—

(1) support for specialized professional training, scholarships, and exchanges for continuing legal education;

(2) programs to enhance prosecutorial and judicial capabilities and protection for participants in judicial cases;

(3) [491] notwithstanding section 660 of this Act—

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that is affiliated with or supportive of any armed opposition group: *Provided further,* That the manner in which these funds are used shall not be inconsistent with the Sapoa Agreement, as its terms are applied and monitored for acceptability by the Verification Commission established by that Agreement: *Provided further,* That $1,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for the provision of medical supplies and hospital equipment for Poland through private and voluntary organizations, including the expenses of purchasing, transporting, and distributing such supplies and equipment: *Provided further,* That funds made available under this heading shall remain available until September 30, 1990."

Public Law 100–461, title V, included several references to Economic Support Fund appropriations. See page 537.

Sec. 2227 of Public Law 100–418 (102 Stat. 1338) authorized an appropriation of an additional $2,000,000 for each of fiscal years 1988 and 1989 for medical supplies and hospital equipment for Poland. For full text, see page 733.

Sec. 4305(c)(1) of Public Law 100–690, 102 Stat. 4273, provided that:"Of the funds made available for fiscal year 1989 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund), not less than $5,000,000 shall be used to provide to the Government of Colombia such assistance as it may request to provide protection against narcoterrorist attacks on judges, other government officials, and members of the press."

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100–202, 101 Stat. 1329–131), made Economic Support Fund funds available for two years, until September 30, 1989. For text, see page 576.

[489] 22 U.S.C. 2346d. Sec. 202 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1529) added sec. 535. Sec. 201(b) of the International Security and Development Cooperation Act of 1985 replaced the years "1982" and "1983" with "1986" and "1987".

[490] 22 U.S.C. 2346c. Sec. 534 was added by sec. 712 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 244).

[491] Paragraph (3) was amended by sec. 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100–202, 101 Stat. 1329–181). It previously read as follows: "(3) notwithstanding section 660 of this Act, programs to enhance investigative capabilities, conducted under judicial or prosecutorial control".

(A) programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control;

(B) programs to assist in the development of academic instruction and curricula for training law enforcement personnel;

(C) programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures; and

(D) programs, conducted through multilateral or regional institutions, to improve penal institutions and the rehabilitation of offenders;

(4) strengthening professional organizations in order to promote services to members and the role of the bar in judicial selection, enforcement of ethical standards, and legal reform;

(5) increasing the availability of legal materials and publications;

(6) seminars, conferences, and training and educational programs to improve the administration of justice and to strengthen respect for the rule of law and internationally recognized human rights; and

(7) revision and modernization of legal codes and procedures.

(c) Not more than $20,000,000 of the funds made available to carry out this chapter for any fiscal year shall be available to carry out this section, in addition to amounts otherwise available for such purposes.

(d) Funds may not be obligated for assistance under this section unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified of the amount and nature of the proposed assistance at least 15 days in advance in accordance with the procedures applicable to reprogrammings pursuant to section 634A of this Act.

(e) [492] Personnel of the Department of Defense and members of the United States Armed Forces may not participate in the provision of training under this section. Of the funds made available to carry out this section, not more than $7,000,000 may be made available in each of fiscal years 1988 and 1989 to carry out the provisions of subsection (b)(3) of this section. The authority of this section shall expire on September 30, 1989.

Sec. 535.[493] **Economic Support for Disadvantaged South Africans.**—(a)(1) Up to $40,000,000, of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1987 and each fiscal year thereafter shall be available for assistance for disadvantaged South Africans. Assistance under this section shall be provided for activities that are consistent with the objective of a majority of South Africans for an end to the apartheid system and the establishment of a society based on non-racial principles. Such activities may include scholarships, assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise and alternative education and community development programs.

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[492] Subsec. (e) was substantively amended by sec. 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-181). Previously, it had only set an expiration date of September 30, 1987.

[493] 22 U.S.C. 2346d. Sec. 535 was added by sec. 511 of Public Law 99-440, 100 Stat. 411.

(2) Up to $3,000,000 of the amounts provided in each fiscal year pursuant to subsection (a) shall be available for training programs for South Africa's trade unionists

(b) Assistance provided pursuant to the section shall be made available notwithstanding any other provision of law and shall not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa. Nothing in this subsection may be construed to prohibit programs which are consistent with subsection (a) and which award scholarships to students who choose to attend South African-supported institutions.

Chapter 5—International Military Education and Training [494]

Sec. 541.[495] General Authority.—The President is authorized to furnish, on such terms and conditions consistent with this Act as the President may determine (but whenever feasible on a reimbursable basis), military education and training to military and related civilian personnel of foreign countries. Such training and education may be provided through—

(1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad;

(2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and

(3) observation and orientation visits to military facilities and related activities in the United States and abroad.

Sec. 542.[496] Authorization.—There are authorized to be appropriated to the President to carry out the purposes of this chapter $56,221,000 for the fiscal year 1986 and $56,221,000 for the fiscal year 1987.[497]

Sec. 543.[498] Purposes.—Education and training activities conducted under this chapter shall be designed—

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[494] Chapter 5 was added by sec. 106(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 732).

[495] 22 U.S.C. 2347.

[496] 22 U.S.C. 2347a.

[497] The authorization figures for fiscal year 1986 and 1987 were added by sec. 104 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 195). Authorizations under sec. 542 during recent years included the following: fiscal year 1976—$27,000,000; fiscal year 1977—$30,200,000; fiscal year 1978—$31,000,000; fiscal year 1979—$31,800,000; fiscal year 1980—$31,800,000; fiscal year 1981—$34,000,000; fiscal year 1982—$42,000,000; fiscal year 1983—$42,000,000; fiscal year 1984—$56,452,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "International Military Education and Training":

"For necessary expenses to carry out the provisions of section 541, $47,400,000: *Provided*, That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students."

Sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560) struck out the second sentence of sec. 542. This sentence had prohibited training under this section outside the United States after June 30, 1976, unless the President reported and justified such training to the Congress.

[498] 22 U.S.C. 2347b.

(1) to encourage effective and mutually beneficial relations and increased understanding between the United States and foreign countries in furtherance of the goals of international peace and security;

(2) to improve the ability of participating foreign countries to utilize their resources, including defense articles and defense services obtained by them from the United States, with maximum effectiveness, thereby contributing to greater self-reliance by such countries; and

(3) [499] to increase the awareness of nationals of foreign countries participating in such activities of basic issues involving internationally recognized human rights.

Sec. 544.[500, 501] **Exchange Training.**—In carrying out this chapter, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States (other than service academies) without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.

Sec. 545.[501, 502] **Training in Maritime Skills.**—The President is encouraged to allocate a portion of the funds made available each fiscal year to carry out this chapter for use in providing education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills.

Chapter 6—Peacekeeping Operations [503]

Sec. 551.[504] **General Authority.**—The President is authorized to furnish assistance to friendly countries and international organizations, on such terms and conditions as he may determine, for peacekeeping operations and other programs carried out in furtherance of the national security interests of the United States. Such assistance may include reimbursement to the Department of Defense for expenses incurred pursuant to section 7 of the United Nations Participation Act of 1945,[505] except that such reimbursements may not exceed $5,000,000 in any fiscal year unless a greater amount is specifically authorized by this section.

Sec. 552.[506] **Authorization of Appropriations.**—(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to amounts otherwise available for such purposes, $37,000,000 for the fiscal year 1986 and $37,000,000 for the fiscal year 1987.[507]

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[499] Par. (3) was added by sec. 11(b)(3) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 736).

[500] 22 U.S.C. 2347c.

[501] Secs. 544 and 545 were added by secs. 126 and 127(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 205).

[502] 22 U.S.C. 2347d.

[503] Chapter 6 was added by sec. 12(a) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 736).

[504] 22 U.S.C. 2348. The final sentence in this section was added by sec. 10(b) of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 705).

[505] For text, see vol. II, sec. H.

[506] 22 U.S.C. 2348a.

(b) Amounts appropriated under this section are authorized to remain available until expended.

(c)[508] If the President determines that, as the result of an unforeseen emergency, the provision of assistance under this chapter in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States, the President may (1) exercise the authority of section 610(a) of this Act to transfer funds available to carry out chapter 4 of this part for use under this chapter without regard to the 20-percent increase limitation contained in such section, except that the total amount so transferred in any fiscal year may not exceed $15,000,000; and[509] (2)[510] in the event the President also determines that such unforeseen emergency requires the immediate provision of assistance under this chapter, direct the drawdown of commodities and services from the inventory and resources of any agency of the United States Government of an aggregate value not to exceed $25,000,000 in any fiscal year.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under subsection (c)(2).

Sec. 553.[511] Middle East Special Requirements Fund.—* * * [Repealed—1980]

Sec. 553.[512] Administrative Authorities.—Except where expressly provided to the contrary, any reference in any law to part I of this Act shall be deemed to include reference to this chapter and any reference in any law to part II of this Act shall be deemed to exclude reference to this chapter.

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[507] The authorization figures for fiscal years 1986 and 1987 were added by sec. 105(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 195). Authorizations under sec. 552 during recent years included the following: fiscal year 1979—$30,900,000; fiscal year 1980—$21,100,000; fiscal year 1981—$25,000,000; fiscal year 1982—$19,000,000; fiscal year 1983—$19,000,000; fiscal year 1984—$46,200,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Sec. 4(b)(1) of Public Law 97-132 (95 Stat. 1694) authorized an additional $125,000,000 to carry out this chapter during fiscal year 1982 for use in paying the U.S. contribution to the budget of the Multinational Force and Observers in Sinai. See vol. II, sec. G, for text of Public Law 97-132.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "Peacekeeping Operations":

"For necessary expenses to carry out the provisions of section 551, $31,689,000: *Provided*, That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1989: *Provided further*, That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts."

[508] Subsec. (c) was added by sec. 10(c) of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 705).

[509] Sec. 114(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1528) increased the amount which may be transferred in any fiscal year from $10,000,000 to $15,000,000 and deleted language prohibiting earmarked funds from being transferred.

[510] Subsec. (c), par. (2), and subsec. (d) were added by sec. 105(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 195).

[511] The Middle East Special Requirements Fund was originally added as sec. 903 of this Act by the FA Act of 1974 and moved to sec. 553 by the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 737). Sec. 553 was repealed by sec. 116(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3140).

[512] 22 U.S.C. 2348c. Originally added as sec. 554, it was redesignated as Sec. 553 by sec. 116(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3140).

Chapter 7—Air Base Construction in Israel [513]

Sec. 561.[514] General Authority.—The President is authorized—

(1) to construct such air bases in Israel for the Government of Israel as may be agreed upon between the Government of Israel and the Government of the United States to replace the Israeli airbases located at Etzion and Etam on the Sinai peninsula that are to be evacuated by the Government of Israel; and

(2) for purposes of such construction, to furnish as a grant to the Government of Israel, on such terms and conditions as the President may determine, defense articles and defense services, which he may acquire from any source, of a value not to exceed the amount appropriated pursuant to section 562(a).

Sec. 562.[515] Authorization and Utilization of Funds.—(a) There is authorized to be appropriated to the President to carry out this chapter not to exceed $800,000,000, which may be made available until expended.[516]

(b) Upon agreement by the Government of Israel to provide to the Government of the United States funds equal to the difference between the amount required to complete the agreed construction work and the amount appropriated pursuant to subsection (a) of this section, and to make those funds available, in advance of the time when payments are due, in such amounts and at such times as may be required by the Government of the United States to meet those additional costs of construction, the President may incur obligations and enter into contracts to the extent necessary to complete the agreed construction work, except that this authority shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Funds made available by the Government of Israel pursuant to subsection (b) of this section may be credited to the appropriation account established to carry out the purposes of this section for the payment of obligations incurred and for refund to the Government of Israel if they are unnecessary for that purpose, as determined by the President. Credits and the proceeds of guaranteed loans made available to the Government of Israel pursuant to the Arms Export Control Act, as well as any other source of financing available to it, may be used by Israel to carry out its undertaking to provide such additional funds.

Sec. 563.[517] Waiver Authorities.—(a) It is the sense of the Congress that the President should take all necessary measures consistent with law to insure the efficient and timely completion of the construction authorized by this chapter, including the exercise of authority vested in him by section 633(a) of this Act.

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[513] Chapter 7 was added by sec. 3 of the Special International Security Assistance Act of 1979 (Public Law 96–35, 93 Stat. 89).

[514] 22 U.S.C. 2349.

[515] 22 U.S.C. 2349a.

[516] Supplemental Appropriations Act, 1979 (Public Law 96–35, 93 Stat. 103) stated:

"For necessary expenses to carry out the provisions of chapter 7 of the Foreign Assistance Act of 1961, as amended, $800,000,000, to remain available until expended: *Provided*, That authority to enter into contracts may be exercised to the extent necessary to carry out the purposes of that chapter."

[517] 22 U.S.C. 2349b. See also sec. 6 of Executive Order 11223 which pertains to the administration of this chapter (page 764)

(b) The provisions of paragraph (3) of section 636(a) of this Act shall be applicable to the use of funds available to carry out this chapter, except that no more than sixty persons may be engaged at any one time under that paragraph for purposes of this chapter.

Chapter 8—Antiterrorism Assistance[518]

Sec. 571.[519] **General Authority.**—Subject to the provisions of this chapter, the President is authorized to furnish, on such terms and conditions as the President may determine, assistance to foreign countries in order to enhance the ability of their law enforcement personnel to deter terrorists and terrorist groups from engaging in international terrorist acts such as bombing, kidnaping, assassination, hostage taking, and hijacking. Such assistance may include training services and the provision of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security, and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents, and the apprehension of those involved in such acts.

Sec. 572.[520] **Purposes.**—Activities conducted under this chapter shall be designed—

(1) to enhance the antiterrorism skills of friendly countries by providing training and equipment to deter and counter terrorism;

(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

(3) to increase respect for human rights by sharing with foreign civil authorities modern, humane, and effective antiterrorism techniques.

Sec. 573.[521] **Specific Authorities and Limitations.**—(a) Notwithstanding section 660 of this Act, services and commodities may be granted for the purposes of this chapter to eligible foreign countries, subject to reimbursement of the value thereof (within the meaning of section 644(m)) pursuant to section 632 of this Act from funds available to carry out this chapter.

(b) Whenever the President determines it to be consistent with and in furtherance of the purposes of this chapter, and on such terms and conditions consistent with this Act as he may determine, any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out this chapter, to an eligible foreign country, subject to payment in advance of the value thereof (within the meaning of section 644(m)) in United States dollars by the foreign country. Credits and the proceeds of guaranteed loans made available to such countries pursuant to the Arms Export Control Act shall not be used for such payments. Collections under this chapter shall be credited to the currently applicable appropriation, account, or fund of the agency providing such services and commodities and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

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[518] Chapter 8 was added by the International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984; Public Law 98-151, 97 Stat. 972). Pursuant to Public Law 98-151, chapter 8 was enacted as contained in title II of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983, except for sec. 575, which was included in Public Law 98-151.

[519] 22 U.S.C. 2349aa. Delegation of Authority No. 1452 (February 4, 1984) delegated the functions conferred upon the President by chapter 8 to the Director of the Office for Combating Terrorism.

[520] 22 U.S.C. 2349aa1.

[521] 22 U.S.C. 2349aa2.

(c) The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall be consulted in the development and implementation of the antiterrorism assistance program under this chapter, including determinations of the foreign countries that will be furnished assistance under this chapter and determinations of the nature of assistance to be furnished to each such country.

(d)(1) Training services provided pursuant to this chapter shall not be conducted outside the United States.

(2) Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed thirty consecutive calendar days.

(3) Employees of the Department of State shall not engage in the training of law enforcement personnel or provision of services under this chapter, except that employees of the Office of Security of the Department of State may provide training and services to law enforcement personnel for the physical protection of internationally protected persons and related facilities.

(4)[522] (A) Articles on the United States Munitions List may be made available under this chapter only if—

(i) they are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c) (relating to detection and handling of explosive devices), articles in category X (relating to protective personnel equipment), or articles in paragraph (b), (c), or (d) of category XIII (relating to speech privacy devices, underwater breathing apparatus and armor plating), and they are directly related to antiterrorism training under this chapter;

(ii) the recipient country is not prohibited by law from receiving assistance under one or more of the following provisions: chapter 2 of this part (relating to grant military assistance), chapter 5 of this part (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales financing); and

(iii) at least 15 days before the articles are made available to the foreign country, the President notifies the Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

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[522] Par. (4) was comprehensively amended and restated by sec. 507 of Public Law 99-399, 100 Stat. 873.

(B) The value (in terms of original acquisition cost) of all equipment and commodities provided under subsection (a) in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

(C) No shock batons or similar devices may be provided under this chapter.

(5) Assistance under this chapter shall not include provision of services, equipment, personnel, or facilities involved in the collection of intelligence as defined in Executive Order 12333 of December 4, 1981, other than limited training in the organization of intelligence for antiterrorism purposes.

(e) This chapter does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

(f) [523] Funds made available to carry out this chapter may not be used for personnel compensation or benefits.

Sec. 574.[524] **Reports to Congress.**—(a)(1) Not less than thirty days before providing assistance to a foreign country under this chapter, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a written notification which specifies—

(A) the country to which such assistance is to be provided;

(B) the type and value of the assistance to be provided;

(C) the terms and duration of assistance; and

(D) an explanation of how the proposed assistance will further the objectives of this chapter to assist eligible foreign countries in deterring terrorism.

(2) The chairman of either the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate may request, as deemed necessary, a current report on the state of observance of and respect for internationally recognized human rights in the country to which assistance is to be provided. In the event that a report is requested, no assistance under subsection (a) shall be provided to the country specified prior to transmittal of the report to the requesting committee.

(b) The annual congressional presentation materials shall include—

(1) a list of the countries which received assistance under this chapter for the preceding fiscal year, a list of the countries which are programed to receive assistance under this chapter for the current fiscal year, and a list of the countries which are proposed as recipients of assistance under this chapter for the next fiscal year; and

(2) with respect to each country listed pursuant to paragraph (1) and for each such fiscal year, a description of the assistance under this chapter furnished, programed, or proposed, including—

(A) the place where training or other services under this chapter were or will be furnished, the duration of such training or other services, and the number of personnel from that country which were or will receive training under this chapter;

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[523] Subsec. (f) was added by sec. 501(c) of Public Law 99-83 (99 Stat. 221).

[524] 22 U.S.C. 2349aa3.

(B) the types of equipment or other commodities which were or will be furnished under this chapter; and

(C) whether the assistance was furnished on a grant basis, on an advance payment basis, or on some other basis.

Each report shall also describe the ways in which the provision of such assistance has furthered the objective of enhancing the ability of foreign law enforcement authorities to deter acts of terrorism.

Sec. 575.[525] **Authorizations of Appropriations.**—(a) There are authorized to be appropriated to the President to carry out this chapter $9,840,000 for the fiscal year 1986 and $14,680,000 for the fiscal year 1987.

(b) Amounts appropriated under this section are authorized to remain available until expended.

Sec. 576.[526] **Administrative Authorities.**—Except where expressly provided to the contrary, any reference in any law to part I of this Act shall be deemed to include reference to this chapter and any reference in any law to part II of this Act shall be deemed to exclude reference to this chapter.

Sec. 577.[527] * * * [Repealed—1985]

PART III

Chapter 1—General Provisions

Sec. 601.[528] **Encouragement of Free Enterprise and Private Participation.**—(a) The Congress of the United States recognizes the vital role of free enterprise in achieving rising levels of production and standards of living essential to economic progress and development. Accordingly, it is declared to be the policy of the United States to encourage the efforts of other countries to increase the flow of international trade, to foster private initiative and competition, to encourage the development and use of cooperatives, credit unions, and savings and loan associations, to discourage monopolistic practices, to improve the technical efficiency of their industry, agriculture, and commerce, and to strengthen free labor unions; and to encourage the contribution of United States enterprise toward economic strength of less developed friendly countries, through private trade and investment abroad, private participation in programs carried out under this Act (including the use of private trade channels to the maximum extent practicable in carrying out such programs), and exchange of ideas and technical information on the matters covered by this subsection.

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[525] 22 U.S.C. 2349aa4. The authorization for fiscal year 1986 was enacted by sec. 501(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 219). The authorization for fiscal year 1987 of $14,680,000 was substituted in lieu of the amount of $9,840,000 (originally enacted by Public Law 99-83) by sec. 401 of Public Law 99-399 (100 Stat. 862). Previous authorizations include: fiscal year 1984—$5,000,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "Anti-Terrorism Assistance":

"For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $9,840,000."

[526] 22 U.S.C. 2349aa5.

[527] Formerly, 22 U.S.C. 2349aa6. Sec. 577 was repealed by sec. 501(d) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 220). Previously, the authorities under this chapter would have expired on September 30, 1985.

[528] 22 U.S.C. 2351.

(b) In order to encourage and facilitate participation by private enterprise to the maximum extent practicable in achieving any of the purposes of this Act, the President shall—

(1) make arrangements to find, and draw the attention of private enterprise to opportunities for investment and development in less developed countries and areas;

(2) establish an effective system for obtaining adequate information with respect to the activities of, and opportunities for, nongovernmental participation in the development process, and for utilizing such information in the planning, direction, and execution of programs carried out under this Act, and in the coordination of such programs with the ever-increasing developmental activities of nongovernmental United States institutions;

(3) [529] accelerate a program of negotiating treaties for commerce and trade, including tax treaties, which shall include provisions to encourage and facilitate the flow of private investment to, and its equitable treatment in, friendly countries and areas participating in programs under this Act;

(4) [529] seek, consistent with the national interest, compliance by other countries or areas with all treaties for commerce and trade and taxes, and take all reasonable measures under this Act or other authority to secure compliance therewith and to assist United States citizens in obtaining just compensation for losses sustained by them or payments exacted from them as a result of measures taken or imposed by any country or area thereof in violation of any such treaty;

(5) [529] to the maximum extent practicable [530] carry out programs of assistance through private channels and to the extent practicable in conjunction with local private or governmental participation, including loans under the authority of section 122 [531] to any individual, corporation, or other body of persons; [530]

(6) [532] take appropriate steps to discourage nationalization, expropriation, confiscation, seizure of ownership or control of private investment and discriminatory or other actions, having the effect thereof, undertaken by countries receiving assistance under this Act, which divert available resources essential to create new wealth, employment, and productivity in those countries and otherwise impair the climate for new private in-

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[529] Sec. 301(a)(2) of the FA Act of 1966 redesignated pars. (2), (3), (4), (5), and (6) as pars. (3), (4), (5), (6), and (7) respectively and added a new par. (2).

[530] Sec. 301(a)(2) of the FA Act of 1963 substituted the words "to the maximum extent practicable" for the words "wherever appropriate", and substituted a semicolon for the period at the end of the paragraph.

[531] Sec. 102(g)(2)(B) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 942) substituted "122" in lieu of "201".

[532] Pars. (6) and (7) were added by sec. 301(a)(3) of the FA Act of 1963. Originally added as pars. (5) and (6), they were redesignated by sec. 301(a)(2) of the FA Act of 1966.

vestment essential to the stable economic growth and development of those countries;

(7) utilize wherever practicable the services of United States private enterprise (including, but not limited to, the services of experts and consultants in technical fields such as engineering);

(8)[533] utilize wherever practicable the services of United States private enterprise on a cost-plus incentive fee contract basis to provide the necessary skills to develop and operate a specific project or program of assistance in a less developed friendly country or area in any case in which direct private investment is not readily encouraged, and provide where appropriate for the transfer of equity ownership in such project or program to private investors at the earliest feasible time.

(c)[534] (1) There is hereby established an International Private Investment Advisory Council on Foreign Aid to be composed of such number of leading American business specialists as may be selected, from time to time, by the Administrator of the Agency for International Development for the purpose of carrying out the provisions of this subsection.[535] The members of the Council shall serve at the pleasure of the Administrator, who shall designate one member to serve as Chairman.

(2) It shall be the duty of the Council, at the request of the Administrator, to make recommendations to the Administrator with respect to particular aspects of programs and activities under this Act where private enterprise can play a contributing role and to act as liaison for the Administrator to involve specific private enterprises in such programs and activities.[535]

(3) The members of the Advisory Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5 of the United States Code[536] for travel and other expenses incurred by them in the performance of their functions under this subsection.

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[533] Sec. 301(a)(3) of the FA Act of 1966 added par. (8).

[534] Subsec. (c) was amended by sec. 301(a)(4) of the FA Act of 1966. It formerly read as follows:

"(c)(1) There is hereby established an Advisory Committee on Private Enterprise in Foreign Aid. The Advisory Committee shall carry out studies and make recommendations for achieving the most effective utilization of the private enterprise provisions of this Act to the head of the Agency charged with administering the programs under part I of this Act, who shall appoint the Committee.

"(2) Members of the Advisory Committee shall represent the public interest and shall be selected from the business, labor and professional world, from the universities and foundations, and from among persons with extensive experience in government. The Advisory Committee shall consist of not more than nine members, and one of the members shall be designated as chairman.

"(3) Members of the Advisory Committee shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b2) for travel and other expenses incurred in attending meetings of the Advisory Committee.

"(4) The Advisory Committee shall, if possible, meet not less frequently than once each month, shall submit such interim reports as the Committee finds advisable, and shall submit a final report not later than June 30, 1965, whereupon the Committee shall cease to exist. Such reports shall be made available to the public and to the Congress.

"(5) The expenses of the Committee, which shall not exceed $50,000, shall be paid from funds otherwise available under this Act."

[535] This function of the Administrator of AID was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[536] The words "5703 of title 5 of the United States Code" was substituted for "5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b2)" by sec. 301(a) of the FA Act of 1967.

(4) The expenses of the Advisory Council shall be paid by the Administrator from funds otherwise available under this Act.

(d)[537] It is the sense of Congress that the Agency for International Development should continue to encourage, to the maximum extent consistent with the national interest, the utilization of engineering and professional services of United States firms (including, but not limited to, any corporation, company, partnership, or other association) or by an affiliate of such United States firms in connection with capital projects financed by funds authorized under this Act.[538]

(e)[539] (1) The Congress finds that significantly greater effort must be made in carrying out programs under part I of this Act to award contracts on the basis of competitive selection procedures. All such contracts should be let on the basis of competitive selection procedures except in those limited cases in which the procurement regulations governing the agency primarily responsible for administering part I of this Act allow noncompetitive procedures to be used.

(2)[540] * * * [Repealed—1981]

Sec. 602.[541] **Small Business.**—(a) Insofar as practicable and to the maximum extent consistent with the accomplishment of the purposes of this Act, the President shall assist American small business to participate equitably in the furnishing of commodities, defense articles, and services (including defense services) financed with funds made available under this Act—

(1) by causing to be made available to suppliers in the United States, and particularly to small independent enterprises, information, as far in advance as possible, with respect to purchases proposed to be financed with such funds;

(2) by causing to be made available to prospective purchasers in the countries and areas receiving assistance under this Act information as to such commodities, articles, and services produced by small independent enterprises in the United States; and

(3) by providing for additional services to give small business better opportunities to participate in the furnishing of such commodities, articles, and services financed with such funds.

(b) There shall be an Office of Small Business, headed by a Special Assistant for Small Business, in such agency of the United States Government as the President may direct, to assist in carrying out the provisions of subsection (a) of this section.

(c) The Secretary of Defense shall assure that there is made available to suppliers in the United States, and particularly to small independent enterprises, information with respect to purchases made by the Department of Defense pursuant to part II, such information to be furnished as far in advance as possible.

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[537] Subsec. (d) was added by sec. 301(b) of the FA Act of 1964.

[538] This responsibility of the agency and its Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[539] Subsec. (e) was added by sec. 501 of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 956).

[540] Par. (2), which had required certain information to be supplied to Congress within the congressional presentation materials for development assistance in fiscal years 1980 and 1981 concerning contracts entered into by AID without competitive selection procedures, was struck out by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[541] 22 U.S.C. 2352.

Sec. 603.[542] **Shipping on United States Vessels.**—The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this Act or the Agricultural Trade Development and Assistance Act of 1954 as amended (7 U.S.C. 1691 et seq.), and transfers of fresh fruit and products thereof under this Act shall not be governed by the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241), or any other law relating to the ocean transportation of commodities on United States flag vessels.

Sec. 604.[543] **Procurement.**—(a) Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States,[544] and only if the price of any commodity procured in bulk is lower than the market price prevailing in the United States at the time of procurement, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(b) No funds made available under this Act shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(c) [545] In providing for the procurement of any agricultural commodity or product thereof available for disposition under the Agricultural Trade Development and Assistance Act of 1954 as amended, for transfer by grant under this Act to any recipient country in accordance with its requirements, the President shall, insofar as practicable and when in furtherance of the purposes of this Act, authorize the procurement of such agricultural commodity only within the United States except to the extent that such agricultural commodity is not available in the United States in sufficient quantities to supply emergency requirements of recipients under this Act.

(d) In providing assistance in the procurement of commodities in the United States, United States dollars shall be made available for marine insurance on such commodities where such insurance is placed on a competitive basis in accordance with normal trade practice prevailing prior to the outbreak of World War II: *Provided,* That in the event a participating country, by statute, decree, rule, or regulation, discriminates against any marine insurance company authorized to do business in any State of the United States, then commodities purchased with funds provided hereunder and destined for such country shall be insured in the United States against marine risk with a company or companies authorized to do a marine insurance business in any State of the United States.

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[542] 22 U.S.C. 2353.

[543] 22 U.S.C. 2354.

[544] See also sec. 237(k) of this Act.

[545] Sec. 301(b)(1) of the FA Act of 1966 struck out the word "surplus" which appeared before the word "agricultural" in three places in this subsec. and added the words "or product thereof available for disposition under the Agricultural Trade Development and Assistance Act of 1954, as amended,". For text of the Agricultural Trade Development and Assistance Act, see page 939.

(e)[546] No funds made available under this Act shall be used for the procurement of any agricultural commodity or product thereof outside the United States when the domestic price of such commodity is less than parity, unless the commodity to be financed could not reasonably be produced in the United States in fulfillment of the objectives of a particular assistance program under which such commodity procurement is to be financed.

(f)[547] No funds authorized to be made available to carry out part I of this Act shall be used under any commodity import program to make any payment to a supplier unless the supplier has certified to the agency primarily responsible for administering such part I, such information as such agency shall by regulation prescribe, including but not limited to, a description of the commodity supplied by him and its condition, and on the basis of such information such agency shall have approved such commodity as eligible and suitable for financing under this Act.

(g)[548] (1) None of the funds authorized to be appropriated or made available for obligation or expenditure under this Act may be made available for the procurement of construction or engineering services from advanced developing countries, eligible under the Geographic Code 941, which have attained a competitive capability in international markets for construction services or engineering services.

(2)[548] Paragraph (1) does not apply with respect to an advanced developing country which—

(A) is receiving direct economic assistance under chapter 1 of part I or chapter 4 of part II of this Act, and

(B) if the country has its own foreign assistance programs which finance the procurement of construction or engineering services, permits United States firms to compete for those services.

Sec. 605.[549] **Retention and Use of Certain Items and Funds.**—(a) Any commodities and defense articles procured to carry out this Act shall be retained by, or upon reimbursement, transferred to, and for the use of, such agency of the United States Government as the President may determine in lieu of being disposed of to a foreign country or international organization, whenever in the judgment of the President the best interests of the United States will be served thereby or whenever such retention is called for by concurrent resolution. Any commodities or defense articles so retained may be disposed of without regard to provisions of law relating to the disposal of property owned by the United States Government, when necessary to prevent spoilage or wastage of such commodities or defense articles or to conserve the usefulness thereof. Funds realized from any disposal or transfer shall revert to the respective appropriation, fund, or account used to procure such commodities or defense articles or to the appropriation, fund, or account currently available for the same general purpose.

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[546] Subsec. (e) was added by sec. 301(b)(2) of the FA Act of 1966. The last phrase of subsec. (e), beginning with the words ", unless the commodity * * *", were added by sec. 705(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96-593, 94 Stat. 3157).

[547] Subsec. (f) was added by sec. 301(a) of the FA Act of 1968.

[548] Subsec. (g) was added by sec. 705(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3158). Par. (2) was added by sec. 1207 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 278).

[549] 22 U.S.C. 2355. Sec. 301(a)(1) of the FA Act of 1965 substituted the words "CERTAIN ITEMS AND FUNDS" for "ITEMS" in the title caption of sec. 605.

(b) Whenever commodities are transferred to the United States Government as repayment of assistance under this Act, such commodities may be used in furtherance of the purposes and within the limitations of this Act.

(c) [550] Funds realized as a result of any failure of a transaction financed under authority of part I of this Act to conform to the requirements of this Act, or to applicable rules and regulations of the United States Government, or to the terms of any agreement or contract entered into under authority of part I of this Act, shall revert to the respective appropriation, fund, or account used to finance such transaction or to the appropriation, fund, or account currently available for the same general purpose.

(d) [550] Funds realized by the United States Government from the sale, transfer, or disposal of defense articles returned to the United States Government by a recipient country or international organization as no longer needed for the purpose for which furnished shall be credited to the respective appropriation, fund, or account used to procure such defense articles or to the appropriation, fund, or account currently available for the same general purpose.

Sec. 606.[551] **Patents and Technical Information.**—(a) Whenever, in connection with the furnishing of assistance under this Act—

(1) an invention or discovery covered by a patent issued by the United States Government is practiced within the United States without the authorization of the owner, or

(2) information, which is (A) protected by law, and (B) held by the United States Government subject to restrictions imposed by the owner, is disclosed by the United States Government or any of its officers, employees, or agents in violation of such restrictions,

the exclusive remedy of the owner, except as provided in subsection (b) of this section, is to sue the United States Government for reasonable and entire compensation for such practice or disclosure in the district court of the United States for the district in which such owner is a resident, or in the United States Claims Court [552] within six years after the cause of action arises. Any period during which the United States Government is in possession of a written claim under subsection (b) of this section before mailing a notice of denial of that claim does not count in computing the six years. In any such suit, the United States Government may plead any defense that may be pleaded by a private person in such an action.

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[550] Subsecs. (c) and (d) were added by sec. 301(a)(2) of the FA Act of 1965.

[551] 22 U.S.C. 2356.

[552] Reference to the United States Claims Court was substituted in lieu of a reference to the Court of Claims by sec. 160(a)(6) of the Federal Courts Improvement Act (Public Law 97-164, 96 Stat. 48).

The last paragraph of section 1498(a) of title 28 of the United States Code shall apply to inventions and information covered by this section.

(b) Before suit against the United States Government has been instituted, the head of the agency of the United States Government concerned may settle and pay any claim arising under the circumstances described in subsection (a) of this section. No claim may be paid under this subsection unless the amount tendered is accepted by the claimant in full satisfaction.

(c) Funds appropriated pursuant to this Act shall not be expended by the United States Government for the acquisition of any drug product or pharmaceutical product manufactured outside the United States if the manufacture of such drug product or pharmaceutical product in the United States would involve the use of, or be covered by, an unexpired patent of the United States which has not previously been held invalid by an unappealed or unappealable judgment or decree of a court of competent jurisdiction, unless such manufacture is expressly authorized by the owner of such patent.

Sec. 607.[553] **Furnishing of Services and Commodities.**—(a) Whenever the President determines it to be consistent with and in furtherance of the purposes of part I and within the limitations of this Act, any agency of the United States Government is authorized to furnish services and commodities on an advance-of-funds or reimbursement basis to friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the Agency for International Development [554] (including foreign voluntary nonprofit relief agencies so registered and approved when no United States voluntary nonprofit relief agency is available).[555] Such advances or reimbursements may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used, under the following circumstances:

(1) Advances or reimbursements which are received under this section within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered.

(2) Advances or reimbursements received pursuant to agreements executed under this section in which reimbursement will not be completed within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered: *Provided*, That such agreements require the payment of interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526), and repayment of such principal and interest does not exceed a period of three years from the date of

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[553] 22 U.S.C. 2357. Subsection designation "(a)" was added by sec. 301(b) of the FA Act of 1968.

[554] The reference to the Agency for International Development was substituted in lieu of a reference to the Advisory Committee on Voluntary Foreign Aid by sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 366).

[555] The parenthetical phrase was added by sec. 122(a) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 541). Subsec. (b) of sec. 122 further instructed the President to issue regulations "governing registration with and approval by the Advisory Committee on Voluntary Foreign Aid of foreign nonprofit agencies."

signing of the agreement to provide the service: *Provided further,* That funds available for this paragraph in any fiscal year shall not exceed $1,000,000 of the total funds authorized for use in such fiscal year by chapter 1 of part I of this Act, and shall be available only to the extent provided in appropriation Acts. Interest shall accrue as of the date of disbursement to the agency or organization providing such services.[556]

(b)[557] When any agency of the United States Government provides services on an advance-of-funds or reimbursable basis under this section, such agency may contract with individuals for personal service abroad or in the United States to perform such services or to replace officers or employees of the United States Government who are assigned by the agency to provide such services. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Civil Service Commission.

(c)[557] (1) Except as provided in subsection (d),[558] no Government-owned excess property shall be made available under this section, section 608, or otherwise in furtherance of the purposes of part I of this Act, unless, before the shipment of such property for use in a specified country (or transfer, if the property is already in such country), the agency administering such part I has approved such shipment (or transfer) and made a written determination—

(A) that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

(B) as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

(C) that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.

(d)[559] The Secretary of State, acting through the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, is authorized to transfer to any friendly country, international organization, the American Red Cross, or other voluntary nonprofit relief agency described in subsection (a), Government-owned excess property made available under this section or section 608 in order to support activities carried out under part I of this Act which are designed to enhance environmental protection in foreign countries if the Secretary of State makes a written determination—

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[556] Sec. 315 of Public Law 94-161 (89 Stat. 849) substituted the words to this point commencing with "Such advances or reimbursements may be credited * * *" in lieu of "Such advances or reimbursements which are received under this section within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered, may be credited to the current applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used."

[557] Sec. 522 of the International Development and Food Assistance Act of 1978 (92 Stat. 959, Public Law 95-424) redesignated subsec. (b) (as added by FA Act of 1968) as subsec. (c) and added a new subsec. (b).

[558] The words "except as provided in subsec. (d)," were added by sec. 129(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 419). Sec. 129(1)(A) of the Act also redesignated pars. (1), (2) and (3) as (A), (B) and (C).

[559] Subsec. (d) was added by sec. 129(2) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93, 99 Stat. 419).

(1) that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

(2) as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

(3) that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.".

Sec. 608.[560] **Advance Acquisition of Property.**—(a) It is the sense of the Congress that in furnishing assistance under part I excess personal property, or (if a substantial savings would occur) other property already owned by an agency of the United States Government, should be utilized wherever practicable in lieu of or supplementary to the procurement of new items for United States- assisted projects and programs.[561] The President is authorized to maintain in a separate account, which shall, notwithstanding section 1210 of the General Appropriation Act, 1951 (64 Stat. 765), be free from fiscal year limitations, $5,000,000 of funds made available under chapter 1 of part I,[562] which may be used to pay costs (including personnel costs) [563] of acquisition, storage, renovation and rehabilitation, packing, crating, handling transportation, and related costs of property classified as domestic or foreign excess property pursuant to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), any property available from an agency of the United States Government [564] or other property, in advance of known requirements therefor for use in furtherance of the purposes of part I: *Provided,* That the amount of property classified as domestic excess property pursuant to the Federal Property and Administrative Services Act of 1949, as amended, held at any one time pursuant to this section shall not exceed $15,000,000 in total original acquisition cost. Property acquired pursuant to the preceding sentence may be furnished (1) pursuant to any provision of part I for which funds are authorized for the furnishing of assistance, in which case the separate account established pursuant to this section shall be repaid from funds made available for such provision for all costs incurred, or (2) pursuant to section 607, in which case such separate account shall be repaid in accordance with the provisions of that section for all costs incurred.

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[560] 22 U.S.C. 2358.

[561] This sentence was added by sec. 301(b) of the FA Act of 1967. The phrases within the sentence of "or (if substantial savings would occur) other property already owned by an agency of the United States Government," and "or supplementary to" were added by sec. 701(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1544).

[562] The words "chapter 1 of part I" were substituted in lieu of "section 212" by sec. 102(g)(2)(C) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 942).

[563] The words "(including personnel costs)," were added by sec. 301(c) of the FA Act of 1966.

[564] The words "any property available from an agency of the United States Government," were added by sec. 701(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1544).

(b) Property classified as domestic excess property under the Federal Property and Administrative Services Act of 1949, as amended, shall not be transferred to the agency primarily responsible for administering part I for use pursuant to the provisions of part I or section 607 unless (1) such property is transferred for use exclusively by an agency of the United States Government, or (2) it has been determined in the same manner as provided for surplus property in section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, that such property is not needed for donation pursuant to that subsection. The foregoing restrictions shall not apply to the transfer in any fiscal year for use pursuant to the provisions of part I of amounts of such property with a total original acquisition cost to the United States Government not exceeding $45,000,000.

Sec. 609.[565] **Special Account.**—(a) In cases where any commodity is to be furnished on a grant basis under chapter 4 of part I under arrangements which will result in the accrual of proceeds to the recipient country from the sale thereof, the President shall require the recipient country to establish a Special Account, and

(1) deposit in the Special Account, under terms and conditions as may be agreed upon, currency of the recipient country in amounts equal to such proceeds;

(2) make available to the United States Government such portion of the Special Account as may be determined by the President to be necessary for the requirements of the United States Government: *Provided,* That such portion shall not be less than 10 per centum in the case of any country to which such minimum requirement has been applicable under any Act repealed by this Act; and

(3) utilize the remainder of the Special Account for programs agreed to by the United States Government to carry out the purposes for which new funds authorized by this Act would themselves be available: *Provided,* That whenever funds from such Special Account are used by a country to make loans, all funds received in repayment of such loans prior to termination of assistance to such country shall be reused only for such purposes as shall have been agreed to between the country and the United States Government.

(b) Any unencumbered balances of funds which remain in the Account upon termination of assistance to such country under this Act shall be disposed of for such purposes as may, subject to approval by Act of the Congress, be agreed to between such country and the United States Government.

Sec. 610. Transfer Between Accounts.—(a)[566] Whenever the President determines it to be necessary for the purposes of this Act, not to exceed 10 per centum of the funds made available for any provision of this Act (except funds made available pursuant to title IV of chapter 2 of part I)[567] may be transferred to, and consolidated with, the funds made available for any other provision of this Act, (except funds made available under chapter 2 of part II of this Act)[568] and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 20 per centum of the amount of funds made available for such provision.

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[565] 22 U.S.C. 2359.

[566] 22 U.S.C. 2360. Subsection designation "(a)" and subsec. (b) were added by sec. 301(a) of the FA Act of 1962.

[567] The parenthetical phrase was added by sec. 301 of the FA Act of 1969.

(b)[566] The authority contained in this section and in sections 451, 506,[569] and 614 shall not be used to augment appropriations made available pursuant to sections 636(g)(1) and 637 or used otherwise to finance activities which normally would be financed from appropriations for administrative expenses.[570]

(c)[571] Any funds which the President has notified Congress pursuant to section 653 that he intends to provide in military assistance to any country may be transferred to, and consolidated with, any other funds he has notified Congress pursuant to such section that he intends to provide to that country for development assistance purposes.

Sec. 611.[572] **Completion of Plans and Cost Estimates.**—(a) No agreement or grant which constitutes an obligation of the United States Government in excess of $500,000[573] under section 1501 of title 31, United States Code,[574] shall be made for any assistance authorized under chapter I of part I, title II of chapter 2 of part I, or chapter 4 of part II—[575]

(1) if such agreement or grant requires substantive technical or financial planning, until engineering, financial, and other plans necessary to carry out such assistance, and a reasonably firm estimate of the cost to the United States Government of providing such assistance, have been completed; and

(2) if such agreement or grant requires legislative action within the recipient country, unless such legislative action may reasonably be anticipated to be completed in time to permit the orderly accomplishment of the purposes of such agreement or grant.

(b) Plans required under subsection (a) of this section for any water or related land resource construction project or program shall include a computation of benefits and costs made insofar as practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning

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[568] The parenthetical phrase was added by sec. 19(a)(1) of the FA Act of 1974.

[569] Sec. 301(c) of the FA Act of 1967 substituted "506" for "510".

[570] The final sentence of subsec. (b), which had been amended by the FA Act of 1966, was repealed by sec. 10(b)(2) of the International Security Assistance Act of 1978 (Public Law 95-424, 92 Stat. 735). It formerly read as follows:

"Not to exceed $9,000,000 of the funds appropriated under section 402 of this Act for any fiscal year may be transferred to and consolidated with appropriations made under section 637(a) of this Act for the same fiscal year, subject to the further limitation that funds so transferred shall be available solely for additional administrative expenses incurred in connection with programs in Vietnam."

[571] Subsec. (c) was added by sec. 19(a)(2) of the FA Act of 1974.

[572] 22 U.S.C. 2361.

[573] Sec. 1208 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 278), raised this amount from $100,000.

[574] This reference to 31 U.S.C. 1501 replaced an earlier reference to 31 U.S.C. 200.

[575] The words "chapter 1 of part I, title II of chapter 2 of part I, or chapter 4 of part II" were substituted in lieu of "titles I, II, and VI of chapter 2 and chapter 4 of part I" by sec. 102(g)(2)(D) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 943).

Act [576] (42 U.S.C. 1962, et seq.) or acts amendatory or supplementary thereto.

(c) To the maximum extent practicable, all contracts for construction outside the United States made in connection with any agreement or grant subject to subsection (a) of this section shall be made on a competitive basis.

(d) Subsection (a) of this section shall not apply to any assistance furnished for the sole purpose of preparation of engineering, financial, and other plans.

(e) [577] In addition to any other requirements of this section, no assistance authorized under chapter 1 of part I, title II of chapter 2 of part I, or chapter 4 of part II [578] shall be furnished with respect to any capital assistance project estimated to cost in excess of $1,000,000 until the head of the agency primarily responsible for administering part I of the Act has received and taken into consideration a certification from the principal officer of such agency in the country in which the project is located as to the capability of the country (both financial and human resources) to effectively maintain and utilize the project taking into account among other things the maintenance and utilization of projects in such country previously financed or assisted by the United States.

Sec. 612.[579] **Use of Foreign Currencies.**—(a) [579] Except as otherwise provided in this Act or other Acts, foreign currencies received either (1) as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby and unobligated on the date prior to the effective date of this Act, or (2) on or after the effective date of this Act, as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby, or (3) as a result of the furnishing of assistance under part I, which are in excess of the amounts reserved under authority of section 105(d) of the Mutual Educational and Cultural Exchange Act of 1961 or any other Act relating to educational and cultural exchanges, may be sold by the Secretary of the Treasury to agencies of the United States Government for payment of their obligations outside the United States, and the United States dollars received as reimbursement shall be deposited into miscellaneous receipts of the Treasury. Foreign currencies so received which are in excess of the amounts so reserved and of the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President, shall be available for the authorized purposes of part I in such amounts as may be specified from time to time in appropriation Acts.

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[576] The reference to this Act was added by sec. 1208(2) of Public Law 99-83 (99 Stat. 278), and replaced an earlier reference to a document entitled: "Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973." The reference to the 1973 document was substituted in lieu of a reference of the "Memorandum of the President dated May 15, 1962" by sec. 117 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 365). Previously, sec. 301(c) of the FA Act of 1963 had substituted the reference to the 1962 memorandum in lieu of a reference to "circular A47 of the Bureau of the Budget."

[577] Subsec. (e) was added by sec. 301(d) of the FA Act of 1967.

[578] The words "chapter 1 of part I, title 2 of chapter 2 of part I, or chapter 4 of part II" were substituted in lieu of "titles I, II, or VI of chapter 2 or chapter 4 of part I" by sec. 102(g)(2)(E) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 943).

[579] 22 U.S.C. 2362. Subsection designation "(a)" was added by sec. 301(d)(1) of the FA Act of 1963.

(b)[580] Any Act of Congress making appropriations to carry out programs under this or any other Act for United States operations abroad is hereby authorized to provide for the utilization of United States-owned excess foreign currencies to carry out any such operations authorized by law.

[581] As used in this subsection, the term "excess foreign currencies" means foreign currencies or credits owned by or owed to the United States which are, under applicable agreements with the foreign country concerned, available for the use of the United States Government and are determined by the President to be excess to the normal requirements of departments and agencies of the United States for such currencies or credits and are not prohibited from use under this subsection by an agreement entered into with the foreign country concerned.

The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars. Dollar funds made available pursuant to this Act shall not be expended for goods and services when United States-owned foreign currencies are available for such purposes unless the administrative official approving the voucher certifies as to the reason for the use of dollars in each case.[582]

(c)[583] In addition to funds otherwise available, excess foreign currencies, as defined in subsection (b), may be made available to friendly foreign governments and to private, nonprofit United States organizations to carry out voluntary family planning programs in countries which request such assistance. No such program shall be assisted unless the President has received assurances that in the administration of such program the recipient will take reasonable precautions to insure that no person receives any family planning assistance or supplies unless he desires such services. The excess foreign currencies made available under this subsection shall not, in any one year, exceed 5 per centum of the aggregate of all excess foreign currencies. As used in this subsection, the term "voluntary family planning program" includes, but is not limited to, demographic studies, medical and psychological research, personnel training, the construction and staffing of clinics and rural health centers, specialized training of doctors and paramedical personnel, the manufacture of medical supplies, and the dissemination of family planning information, medical assistance, and supplies to individuals who desire such assistance.

(d)[584] In furnishing assistance under this Act to the government of any country in which the United States owns excess foreign currencies as defined in subsection (b) of this section, except those currencies generated under the Agricultural Trade Development and Assistance Act of 1954, as amended,[585] the President shall endeavor to obtain from the recipient country an agreement for the release, on such terms and conditions as the President shall determine, of an amount of such currencies up to the equivalent of the dollar value of assistance furnished by the United States for programs as may be mutually agreed upon by the recipient country and the United States to carry out the purposes for which new funds authorized by this Act would themselves be available.

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[580] Subsec. (b) was added by sec. 301(c) of the FA Act of 1964. Originally added as subsec. (c), it was redesignated by sec. 301(c) of the FA Act of 1964 and former subsec. (b) was redesignated as sec. 104(t) of Public Law 480 (the latter has subsequently been transferred in part to sec. 103(m) of Public Law 480).

[581] The first sentence of this paragraph was struck out by sec. 301(b) of the FA Act of 1965. It read as follows: "The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned excess foreign currencies are utilized in lieu of dollars."

[582] This paragraph was added by sec. 301(b) of the FA Act of 1965.

[583] Subsec. (c) was added by sec. 301(e) of the FA Act of 1966.

[584] Subsec. (d) was added by sec. 302 of the FA Act of 1969.

Sec. 613.[586] Accounting, Valuation, Reporting, and Administration of Foreign Currencies.[587]—(a) Under the direction of the President, the Secretary of the Treasury shall have responsibility for valuation and central accounting with respect to foreign credits (including currencies) owed to or owned by the United States. In order to carry out such responsibility the Secretary shall issue regulations binding upon all agencies of the Government.

(b) The Secretary of the Treasury shall have sole authority to establish for all foreign currencies or credits the exchange rates at which such currencies are to be reported by all agencies of the Government.

(c) [588] * * * [Repealed—1981]

(d) [589] In cases where assistance is to be furnished to any recipient country in furtherance of the purposes of this or any other Act on a basis which will result in the accrual of foreign currency proceeds to the United States, the Secretary of the Treasury shall issue regulations requiring that agreements, in respect of such assistance, include provisions for the receipt of interest income on the foreign currency proceeds deposited in authorized depositories: *Provided*, That whenever the Secretary of State determines it not to be in the national interest to conclude arrangements for the receipt of interest income he may waive the requirement thereof: *Provided further*, That the Secretary of State, or his delegate, shall promptly make a complete report to the Congress on each such determination and the reasons therefor.

Sec. 614.[590] Special Authorities.—(a) [591] (1) The President may authorize the furnishing of assistance under this Act without

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[585] For text, see page 939.

[586] 22 U.S.C. 2363.

[587] Sec. 301(c)(1) of the FA Act of 1965 substituted "Accounting, Valuation, Reporting, and Administration of Foreign Currencies" for "Accounting, Valuation, and Reporting of Foreign Currencies".

[588] Subsec. (c), as amended by sec. 46 of Public Law 94-273, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). Subsec. (c) had required a semiannual report to the Congress on the amount of all foreign currencies acquired without payment of dollars on hand for each foreign country. Such information is now required on an annual basis as part of the report required under sec. 634(a) of this Act.

[589] Subsec. (d) was added by sec. 301(c)(2) of the FA Act of 1965.

[590] 22 U.S.C. 2364.

[591] Subsec. (a), as amended by the FA Act of 1966 and the FA Act of 1967, was further amended and restated by sec. 117(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3140), and by sec. 128 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 209). It formerly read as follows:

"(a) The President may authorize in each fiscal year the use of funds made available for use under this Act and the furnishing of assistance under section 506 in a total amount not to exceed $250,000,000 and the use of not to exceed $100,000,000 of foreign currencies accruing

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regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this Act, in furtherance of any of the purposes of this Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is important to the security interests of the United States.

(2) The President may make sales, extend credit, and issue guarantees under the Arms Export Control Act, without regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under the Arms Export Control Act, in furtherance of any of the purposes of such Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is vital to the national security interests of the United States.

(3) Before exercising the authority granted in this subsection, the President shall consult with, and shall provide a written policy justification to, the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(4) [592] (A) The authority of this subsection may not be used in any fiscal year to authorize—

(i) more than $750,000,000 in sales to be made under the Arms Export Control Act;

(ii) the use of more than $250,000,000 of funds made available for use under this Act or the Arms Export Control Act; and

(iii) the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law.

(B) If the authority of this subsection is used both to authorize a sale under the Arms Export Control Act and to authorize funds to be used under the Arms Export Control Act or under this Act with respect to the financing of that sale, then the use of the funds shall be counted against the limitation in subparagraph (A)(ii) and the portion, if any, of the sale which is not so financed shall be counted against the limitation in subparagraph (A)(i).

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under this Act or any other law without regard to the requirements of this Act, any law relating to receipts and credits accruing to the United States, any Act appropriating funds for use under this Act, or the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.), in furtherance of any of the purposes of such Acts, when the President determines that such authorization is important to the security of the United States. Not more than $50,000,000 of the funds available under this subsection may be allocated to any one country in any fiscal year. The limitation contained in the preceding sentence shall not apply to any country which is a victim of active Communist or Communist-supported aggression. The authority of this section shall not be used to waive the limitations on transfers contained in section 610(a) of this Act."

[592] Subsec. (a)(4) was amended and restated by sec. 128 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 206). It formerly read as follows:

"(4) The authority of this subsection may not be used to authorize the use of more than $250,000,000 of funds made available for use under this Act or the Arms Export Control Act, or the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law, in any fiscal year. Not more than $50,000,000 of the funds available under this subsection may be allocated to any one country in any fiscal year, unless such country is a victim of active Communist or Communist-supported aggression."

(C) Not more than $50,000,000 of the $250,000,000 limitation provided in subparagraph (A)(ii) may be allocated to any one country in any fiscal year unless that country is a victim of active Communist or Communist-supported aggression, and not more than $500,000,000 of the aggregate limitation of $1,000,000,000 provided in subparagraphs (A)(i) and (A)(ii) may be allocated to any one country in any fiscal year.

(5) The authority of this section may not be used to waive the limitations on transfers contained in section 610(a) of this Act.

(b) Whenever the President determines it to be important to the national interest, he may use funds available for the purposes of chapter 4 of part I in order to meet the responsibilities or objectives of the United States in Germany, including West Berlin, and without regard to such provisions of law as he determines should be disregarded to achieve this purpose.

(c) The President is authorized to use amounts not to exceed $50,000,000 of the funds made available under this Act pursuant to his certification that it is inadvisable to specify the nature of the use of such funds, which certification shall be deemed to be a sufficient voucher for such amounts.[593] The President shall promptly and fully inform the Speaker of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection.[594]

Sec. 615.[595] Contract Authority.—Provisions of this Act authorizing the appropriation of funds shall be construed to authorize the granting in any appropriation Act of authority to enter into contracts, within the amounts so authorized to be appropriated, creating obligations in advance of appropriations.

Sec. 616.[596] Availability of Funds.—Except as otherwise provided in this Act, funds shall be available to carry out the provisions of this Act as authorized and appropriated to the President each fiscal year.

Sec. 617.[597] Termination of Assistance.—Assistance under any provision of this Act may, unless sooner terminated by the President, be terminated by concurrent resolution. Funds made available under this Act shall remain available for a period not to exceed eight [598] months from the date of termination of assistance under this Act for the necessary expenses of winding up programs related thereto. In order to ensure the effectiveness of assistance under this Act, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.[599]

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[593] See also secs. 624(d)(7) and 636(a)(8) of this Act.

[594] The last sentence was added by sec. 30(g) of the FA Act of 1966.

[595] 22 U.S.C. 2365.

[596] 22 U.S.C. 2366.

[597] 22 U.S.C. 2367.

[598] Sec. 14 of the FA Act of 1973 substituted the word "eight" in lieu of the word "twelve".

[599] This sentence was added by sec. 310 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3148).

Sec. 618. Use of Settlement Receipts.—* * * [Repealed—1978]

Sec. 619.[600] **Assistance to Newly Independent Countries.**—* * * [Repealed—1978]

Sec. 620.[601] **Prohibitions Against Furnishing Assistance.**[602]—(a)(1)[603] No assistance shall be furnished under this Act to the present government of Cuba.[604] As an additional means of implementing and carrying into effect the policy of the preceding sentence, the President is authorized to establish and maintain a total embargo upon all trade between the United States and Cuba.

(2)[605] Except as may be deemed necessary by the President in the interest of the United States, no assistance shall be furnished under this Act to any government of Cuba, nor shall Cuba be entitled to receive any quota authorizing the importation of Cuban sugar into the United States or to receive any other benefit under any law of the United States, until the President determines that such government has taken appropriate steps according to international law standards to return to United States citizens, and to entities not less than 50 per centum beneficially owned by United States citizens, or to provide equitable compensation to such citizens and entities for property taken from such citizens and entities on or after January 1, 1959, by the Government of Cuba.

(b)[606] * * * [Repealed—1981]

(c)[607] No assistance shall be provided under this Act to the government of any country which is indebted to any United States citizen or person for goods or services furnished or ordered where (i) such citizen or person has exhausted available legal remedies, which shall include arbitration, or (ii) the debt is not denied or contested by such government, or (iii) such indebtedness arises under an unconditional guaranty of payment given by such government, or any predecessor government, directly or indirectly, through any controlled entity: *Provided*, That the President does not find such action contrary to the national security.

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[600] Secs. 618 and 619 were repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 961).

[601] 22 U.S.C. 2370.

[602] Sec. 301(d)(1) of the FA Act of 1965 substituted "Prohibitions Against Furnishing Assistance.—" for "Prohibitions Against Furnishing Assistance to Cuba and Certain Other Countries.—" But see secs. 491(b) and 664 of this Act.

[603] Sec. 301(e)(1)(A) of the FA Act of 1963 inserted "(1)" after subsec. (a).

[604] The phrase, "; nor shall any such assistance be furnished to any country which furnishes assistance to the present government of Cuba unless the President determines that such assistance is in the national interest of the United States", which formerly appeared at this point, was struck out by sec. 123(a)(1) of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 541).

[605] Pars. (2) and (3) were added by sec. 301(e)(1)(B) of the FA Act of 1963. Paragraph (3) was subsequently repealed by sec. 123(a)(2) of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 541). It formerly read as follows:

"(3) No funds authorized to be made available under this Act (except under section 214) shall be used to furnish assistance to any country which has failed to take appropriate steps, not later than 60 days after the date of enactment of the Foreign Assistance Act of 1963—

"(A) to prevent ships or aircraft under its registry from transporting to Cuba (other than to United States installations in Cuba)—

"(i) any items of economic assistance,

"(ii) any items which are, for the purposes of title I of the Mutual Defense Assistance Control Act of 1951, as amended, arms, ammunition, and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, or items of primary strategic significance used in the production of arms, ammunition, and implements of war, or

"(iii) any other equipment, materials, or commodities, so long as Cuba is governed by the Castro regime; and

"(B) to prevent ships or aircraft under its registry from transporting any equipment, materials, or commodities from Cuba (other than from United States installations in Cuba) so long as Cuba is governed by the Castro regime."

[606] Subsec. (b) was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1560). It previously read as follows:

"(B) No assistance shall be furnished under this Act to the government of any country unless the President determines that such country is not dominated or controlled by the international Communist movement."

[607] Subsection (c) was amended by sec. 301(d)(2) of the FA Act of 1962. It formerly read as follows:

"(c) No assistance shall be provided under this Act to the government of any country which is indebted to any United States citizen for goods or services furnished, where such citizen has exhausted available legal remedies and the debt is not denied or contested by such government."

(d) No assistance shall be furnished on a loan basis under chapter 1 of part I [608] of this Act for construction or operation of any productive enterprise in any country where such enterprise will compete with United States enterprise unless such country has agreed that it will establish appropriate procedures to prevent the exportation for use or consumption in the United States of more than 20 per centum of the annual production of such facility during the life of the loan. In case of failure to implement such agreement by the other contracting party, the President is authorized to establish necessary import controls to effectuate the agreement. The restrictions imposed by or pursuant to this subsection may be waived by the President where he determines that such waiver is in the national security interest.

(e) [608] (1) [609] The President shall suspend assistance to the government of any country to which assistance is provided under this or any other Act when the government of such country or any government agency or subdivision within such country on or after January 1, 1962—

(A) [610, 611] has nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

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[608] The words "on a loan basis under chapter 1 of part I" were substituted in lieu of "under section 201" by sec. 102(g)(2)(F) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 943).

Subsec. (e) was added by sec. 301(d)(3) of the FA Act of 1962 and was amended by sec. 301(e)(2) of the FA Act of 1963 and by secs. 301(d) (1) and (2) of the FA Act of 1964. As originally enacted, it read as follows:

"(e) The President shall suspend assistance to the government of any country to which assistance is provided under this Act when the government of such country or any governmental agency or subdivision within such country on or after January 1, 1962—

"(1) has nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

"(2) has imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned, and such country, government agency or government subdivision fails within a reasonable time (not more than six months after such action or after the date of enactment of this subsection, whichever is later) to take appropriate steps, which may include arbitration, to discharge its obligations under international law toward such citizen or entity, including equitable and speedy compensation for such property in convertible foreign exchange, as required by international law, or fails to take steps designed to provide relief from such taxes, exactions, or conditions, as the case may be, and such suspension shall continue until he is satisfied that appropriate steps are being taken and no other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection."

Sec. 5(b) of the Africa Famine Relief and Recovery Act of 1985 (Public Law 99-8, 99 Stat. 22), permitted assistance with funds appropriated by the Act without regard to sec. 620(e)(1) [the "Hickenlooper Amendment"].

[609] Paragraph designation "(1)" was added by sec. 301(d)(1) of the FA Act of 1964.

[610] Sec. 301(d)(2) of the FA Act of 1964 redesignated subpars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively.

[611] Sec. 301(d)(2) of the FA Act of 1964 redesignated subpars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively.

(B)[610, 611] has taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(C)[610, 611] has imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned,

and such country, government agency, or government subdivision fails within a reasonable time (not more than six months after such action, or, in the event of a referral to the Foreign Claims Settlement Commission of the United States within such period as provided herein, not more than twenty days after the report of the Commission is received) to take appropriate steps, which may include arbitration, to discharge its obligations under international law toward such citizen or entity, including speedy compensation for such property in convertible foreign exchange, equivalent to the full value thereof, as required by international law, or fails to take steps designed to provide relief from such taxes, exactions, or conditions, as the case may be; and such suspension shall continue until the President is satisfied that appropriate steps are being taken, and the provisions of this subsection shall not be waived with respect to any country unless the President determines and certifies that such a waiver is important to the national interests of the United States. Such certification shall be reported immediately to Congress.[612]

Upon request of the President (within seventy days after such action referred to in subparagraphs (A), (B), or (C) of paragraph (1)[613] of this section), the Foreign Claims Settlement Commission of the United States (established pursuant to Reorganization Plan No. 1 of 1954, 68 Stat. 1279) is hereby authorized to evaluate expropriated property, determining the full value of any property nationalized, expropriated, or seized, or subject to discriminatory or other actions as aforesaid, for purposes of this subsection and to render an advisory report to the President within ninety days after such request. Unless authorized by the President, the Commission shall not publish its advisory report except to the citizen or entity owning such property. There is hereby authorized to be appropriated such amount, to remain available until expended, as may be necessary from time to time to enable the Commission to carry out expeditiously its functions under this subsection.

(2)[614] Notwithstanding any other provision of law, no court in the United States shall decline on the ground of the federal act of state doctrine to make a determination on the merits giving effect to the principles of international law in a case in which claim of title or other right to property[615] is asserted by any party including a foreign state (or a party claiming through such state) based upon (or traced through) a confiscation or other taking after January 1, 1959, by an act of that state in violation of the principles of international law, including the principles of compensation and the other standards set out in this subsection: *Provided,* That this subparagraph shall not be applicable (1) in any case in which an act of a foreign state is not contrary to international law or with respect to a claim of title or other right to property acquired pursuant to an irrevocable letter of credit of not more than 180 days duration issued in good faith prior to the time of the confiscation or other taking, or (2) in any case with respect to which the President determines that application of the act of state doctrine is required in that particular case by the foreign policy interests of the United States and a suggestion to this effect is filed on his behalf in that case with the court.[616]

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[612] The words to this point, beginning with "the provisions of this subsection * * *" were substituted in lieu of "no other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection," by sec. 15 of the FA Act of 1973.

[613] Sec. 301(d)(3) of the FA Act of 1964 substituted the words "subparagraphs (A), (B), or (C) of paragraph (1)" for the words "paragraphs (1), (2), or (3)".

[614] Par. (2) was added by sec. 301(d)(4) of the FA Act of 1964.

(f)[617, 618] (1) No assistance shall be furnished under this Act, as amended (except section 214(b)), to any Communist country. This restriction may not be waived pursuant to any authority contained in this Act unless the President finds and promptly reports to Congress that: (A) such assistance is vital to the security of the United States; (B) the recipient country is not controlled by the international Communist conspiracy; and (C) such assistance will further promote the independence of the recipient country from international communism. For the purposes of this subsection, the phrase "Communist country" includes specifically, but is not limited to, the following countries:[619]

Czechoslovak Socialist Republic.
Democratic People's Republic of Korea.
Estonia.
German Democratic Republic.
Hungarian People's Republic.
Latvia.
Lithuania.
Mongolian People's Republic.
People's Republic of Albania.
People's Republic of Bulgaria.
People's Republic of China.
Polish People's Republic.
Republic of Cuba.
Socialist Federal Republic of Yugoslavia.
Socialist Republic of Romania.
Socialist Republic of Vietnam.

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[615] Sec. 301(d)(2) of the FA Act of 1965 inserted the words "to property".

[616] The words ", or (3) in any case in which the proceedings are commenced after January 1, 1966", which appeared at this point, were struck out by sec. 301(d)(2) of the FA Act of 1965.

[617] Subsec. (f) was added by sec. 301(d)(3) of the FA Act of 1962.

[618] Sec. 1202 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 276) redesignated clauses "(1)", "(2)" and "(3)" as "(A)", "(B)" and "(C)"; added the text of par. (2); and added the "(1)" designation immediately after subsec. (f). People's Republic of China and Tibet were removed on December 11, 1985, pursuant to subsec. (f)(2); see 51 F.R. 1890 (January 15, 1986). Yugoslavia was removed on August 5, 1986; see 51 F.R. 29662 (August 19, 1986).

[619] Sec. 707 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1546) made technical changes to this sentence in subsec. (f) and to the list of countries specified below.

Tibet.

Union of Soviet Socialist Republics (including its captive constituents republics).[620]

(2)[618] Notwithstanding the provisions of paragraph (1) of this subsection, the President may remove a country, for such period as the President determines, from the application of this subsection, and other provisions which reference this subsection, if the President determines and reports to the Congress that such action is important to the national interest of the United States. It is the sense of the Congress that when consideration is given to authorizing assistance to a country removed from the application of this subsection, one of the factors to be weighed, among others, is whether the country in question is giving evidence of fostering the establishment of a genuinely democratic system, with respect for internationally recognized human rights.

(g)[621] Notwithstanding any other provision of law, no monetary assistance shall be made available under this Act to any government or political subdivision or agency of such government which will be used to compensate owners for expropriated or nationalized property and, upon finding by the President that such assistance has been used by any government for such purpose, no further assistance under this Act shall be furnished to such government until appropriate reimbursement is made to the United States for sums so diverted. This prohibition shall not apply to monetary assistance made available for use by a government (or a political subdivision or agency of a government) to compensate nationals of that country in accordance with a land reform program, if the President determines that monetary assistance for such land reform program will further the national interests of the United States.[622]

(h)[621] The President shall adopt regulations and establish procedures to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of the Communist-bloc countries.

(i)[623] * * * [Repealed—1981]

(j)[624] The President shall consider terminating assistance under this or any other Act to any country which permits, or fails to take adequate measures to prevent, the damage or destruction by mob action of United States property within such country, and fails to take appropriate measures to prevent a recurrence thereof and to provide adequate compensation for such damage or destruction.

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[620] The parenthetical phrase was added by sec. 301(e) of the FA Act of 1964.

[621] Subsecs. (g) and (h) were added by sec. 301(d)(3) of the FA Act of 1962.

[622] The last sentence of subsec. (g) was added by sec. 1203 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 277).

[623] Subsec. (i), as added by sec. 301(e)(3) of the FA Act of 1963 and amended by sec. 301(h)(1) of the FA Act of 1966, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). Formerly, subsec. (i) had prohibited any foreign assistance or sales under Public Law 480 to countries engaging in or preparing for aggressive military efforts or participating in an international conference involving the planning of insurrection or subversion directed against the United States or other nations receiving American foreign aid or Public Law 480 sales.

[624] Subsec. (j), which was added by sec. 301(e)(3) of the FA Act of 1963, was amended by sec. 301(f)(1) of the FA Act of 1967. It formerly read as follows: "No assistance under this Act shall be furnished to Indonesia unless the President determines that the furnishing of such assistance is essential to the national interest of the United States. The President shall keep the Foreign Relations Committee and the Appropriations Committee of the Senate and the Speaker of the House of Representatives fully and currently informed of any assistance furnished to Indonesia under this Act."

(k) [625] Without the express approval of Congress, no assistance shall be furnished under this Act to any country for construction of any productive enterprise with respect to which the aggregate value of assistance to be furnished by the United States will exceed $100,000,000, except that this sentence does not apply with respect to assistance for construction of any productive enterprise in Egypt which is described in the presentation materials to Congress.[626] Except as otherwise provided in section 506,[627] no military assistance to be furnished beginning July 1, 1966, by the United States will exceed $100,000,000 unless such program has been included in the presentation to the Congress during its consideration of authorizations for appropriations under this Act or of appropriations pursuant to authorizations contained in this Act. No provision of this or any other Act shall be construed to authorize the President to waive the provisions of this subsection.

(l) [628] The President shall consider denying assistance under this Act to the government of any less developed country which, after December 31, 1966, has failed to enter into an agreement with the President to institute the investment guaranty program under section 234(a)(1) of this Act, providing protection against the specific risks of inconvertibility under subparagraph (A), and expropriation or confiscation under subparagraph (B), of such section 234(a)(1).

(m) [629] [Repealed—1981]

(n) [630] * * * [Repealed—1977]

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[625] Subsec. (k), which was added by sec. 301(e)(3) of the FA Act of 1963, was amended by sec. 301(h)(2) of the FA Act of 1966. It formerly read as follows:

"(k) Until the enactment of the Foreign Assistance Act of the 1965 or other general legislation, during the calendar year 1965, authorizing additional appropriations to carry out programs of assistance under this Act, no assistance shall be furnished under this Act to any country for construction of any productive enterprise with respect to which the aggregate value of such assistance to be furnished by the United States will exceed $100,000,000. No other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection."

[626] The words to this point beginning with ", except that this sentence does not apply" were added by sec. 606 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 757). A reference to fiscal years 1977, 1980, and 1981, which previously appeared at the end of this sentence (the latter two were added by sec. 203 of Public Law 96-533 (94 Stat. 3145)), was deleted by sec. 702 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1544).

[627] Sec. 301(f)(2) of the FA Act of 1967 substituted "506" for "510".

[628] Subsec. (l), which was added by sec. 301(e)(5) of the FA Act of 1963, was amended by sec. 301(h)(3) of the FA Act of 1936. It formerly read as follows:

"(l) No assistance shall be provided under this Act after December 31, 1966, to the government of any less developed country which has failed to enter into an agreement with the President to institute the investment guaranty program under section 221(b)(1) of this Act, providing protection against the specific risks of inconvertibility under subparagraph (A), and expropriation or confiscation under subparagraph (B), of such section 221(b)(1)."

[629] Subsec. (m), as added by sec. 301(e)(3) of the FA Act of 1963 and amended by sec. 301(g) of the FA Act of 1964, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). It formerly read as follows:

"(m) No assistance shall be furnished on a grant basis under this Act to any economically developed nation capable of sustaining its own defense burden and economic growth, except (1) to fulfill firm commitments made prior to July 1, 1963, or (2) additional orientation and training expenses under part II hereof during each fiscal year in amount not to exceed $500,000."

[630] Subsec. (n), as added by sec. 301(d)(4) of the FA Act of 1965 and amended by the FA Act of 1966, 1967, and 1974, was repealed by sec. 123(b) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 541). It formerly read as follows:

"(n) No loans, credits, guaranties, or grants or other assistance shall be furnished under this or any other Act, and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954, to any country which sells or furnishes to North Vietnam, or which permits ships or aircraft under its registry to transport to or from North Vietnam, any equipment,

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(o)[631] In determining whether or not to furnish assistance under this Act, consideration shall be given to excluding from such assistance any country which hereafter seizes, or imposes any penalty or sanction against, any United States fishing vessel on account of its fishing activities in international waters. The provisions of this subsection shall not be applicable in any case governed by international agreement to which the United States is a party.

(p)[632] * * * [Repealed—1974]

(q)[633] No assistance shall be furnished under this Act to any country which is in default, during a period in excess of six calendar months, in payment to the United States of principal or interest on any loan made to such country under this Act, unless such country meets its obligations under the loan or unless the President determines that assistance to such country is in the national interest and notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination.

(r)[633] No recipient of a loan made under the authority of this Act, any part of which is outstanding on or after the date of enactment of this subsection, shall be relieved of liability for the repayment of any part of the principal of or interest on such loan.

(s)[634] (1) In order to restrain arms races and proliferation of sophisticated weapons, and to ensure that resources intended for economic development are not diverted to military purposes, the President shall take into account before furnishing development loans, Alliance loans or supporting assistance to any country under this Act, and before making sales under the Agricultural Trade Development and Assistance Act of 1954, as amended:[635]

(A) the percentage of the recipient or purchasing country's budget which is devoted to military purposes; and

(B) the degree to which the recipient or purchasing country is using its foreign exchange or other[636] resources to acquire military equipment.

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materials, or commodities, so long as the regime in North Vietnam gives support to hostilities in South Vietnam, unless the President determines that such loans, credits, guaranties, grants, other assistance, or sales are in the national interest of the United States."

[631] Subsec. (o) was added by sec. 301(d)(4) of the FA Act of 1965.

[632] Subsec. (p), which was added by sec. 301(h)(5) of the FA Act of 1966, and related to assistance to the United Arab Republic, was repealed by Sec. 44 of the FA Act of 1974.

[633] Subsecs. (q) and (r) were added by sec. 301(h)(5) of the FA Act of 1966.

[634] Subsec. (s), which was added by sec. 301(f)(4) of the FA Act of 1967, was amended by sec. 303(a) of the FA Act of 1969. It formerly read as follows:

"(s) In furnishing development assistance under this Act, and in making sales under the Agricultural Trade Development and Assistance Act of 1954, as amended, the President shall take into account (1) the percentage of the recipient or purchasing country's budget which is devoted to military purposes, and (2) the degree to which the recipient or purchasing country is using its foreign exchange resources to acquire military equipment. When the President finds that development assistance under this Act, or sales under the Agricultural Trade Development and Assistance Act of 1954, as amended, are being diverted to military expenditures, or a recipient or purchasing country is diverting its own resources to unnecessary military expenditures, to a degree which materially interferes with its development, the President shall terminate such assistance and sales until he is assured that such diversion will no longer take place. No other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection."

[635] For text, see page 939.

[636] Sec. 734(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560) added the words "or other" in subpar. (B) and repealed subpar. (C). Subpar. (C) formerly read as follows:

"(C) the amount spent by the recipient or purchasing country for the purchase of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, from any country."

(C)[636] * * * [Repealed—1981]

(2) The President shall report annually to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate his actions in carrying out this provision.

(t)[637] No assistance shall be furnished under this or any other Act and no sales shall be made under the Agricultural Trade Development and Assistance Act of 1954,[638] in or to any country which has severed or hereafter severs diplomatic relations with the United States or with which the United States has severed or hereafter severs diplomatic relations, unless (1) diplomatic relations have been resumed with such country and (2) agreements for the furnishing of such assistance or the making of such sales, as the case may be, have been negotiated and entered into after the resumption of diplomatic relations with such country.

(u)[637] In any decision to provide or continue to provide any program of assistance to any country under the Foreign Assistance Act of 1961, as amended, there shall be taken into account the status of the country with respect to its dues, assessments, and other obligations to the United Nations; and where such country is delinquent with respect to any such obligations for the purposes of the first sentence of Article 19 of the United Nations Charter, the President shall furnish the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report setting forth the assurance given by the government of the country concerned of paying all of its arrearages and of placing its payments of such obligations on a current basis, or a full explanation of the unusual or exceptional circumstances which render it economically incapable of giving such assurance.

(v)[639] * * * [Repealed—1974]

(w)[640] * * * [Repealed—1978]

(x)[641, 642] (1) All military assistance, all sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), and all licenses with respect to the transportation of arms, ammunitions, and implements of war (including technical data relating thereto) to the Government of Turkey, shall be suspended on the date of enactment of this subsection unless and until the President determines and certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act,[643] and any agreement entered into under such Acts, and that substantial progress toward agreement has been made regarding military forces in Cyprus: *Provided*, That for the fiscal year 1978[644] the President may suspend the provisions of this subsection and of section 3(c) of the Arms Export Control Act[645] with respect to cash sales and extensions of credits and guaranties under such Act for the procurement of such defense articles and defense services as the President determines are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization, except that during the fiscal year 1978[646] the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed $175,000,000.[647] Any such suspension shall be effective only so long as Turkey observes the cease-fire on Cyprus, does not increase its military forces or its civilian population on Cyprus, and does not transfer to Cyprus any United States supplied arms, ammunition, or implements of war. The determination required by the proviso in the first sentence of this paragraph shall be made, on a case-by-case basis, with respect to each cash sale, each approval for use of credits, and each approval for use of a guaranty for Turkey. Each such determination shall be reported to the Congress and shall be accompanied by a full and complete statement of the reasons supporting the President's determination and a statement containing the information specified in clauses (A) through (D) of section 2(c)(4) of the Act of October 6, 1975 (Public Law 94-104).[648] In any case involving the sale of significant combat equipment on the United States Munitions List in which the congressional review provisions of section 36(b) of the Arms Export Control Act[649] do not apply, the President may not issue the letter of offer or approve the use of the credits or guaranty, as the case may be, until the end of the thirty-day period beginning on the date on which the report required by the preceding sentence is submitted to the Congress.[650]

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[637] Subsecs. (t) and (u) were added by sec. 301(f)(4) of the FA Act of 1967.

[638] For text, see page 939.

[639] Subsec. (v) which was added by sec. 301 of the FA Act of 1971 was repealed by sec. 24 of the FA Act of 1974. Former subsec. (v) concerned assistance to Greece.

[640] Subsec. (w), which had been added by the FA Act of 1971 and had concerned a suspension of aid to Pakistan, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 959).

[641] 22 U.S.C. 2370. Subsec. (x) was added by sec. 22 of the FA Act of 1974.

[642] Sec. 13(a) of the International Security Assistance Act of 1978 (Public Law 95–384, 92 Stat. 737) specified that subsec. (x) would be of no further force and effect once the President had determined and certified to the Congress that resumption of aid to Turkey was in the national interest as well as in the interest of NATO and that Turkey was acting in good faith toward achieving a peaceful settlement of the Cyprus problem. The President made such a determination, dated September 26, 1978. See page 457 for full text of sec. 13(a).

[643] Renamed the Arms Export Control Act.

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[644] Sec. 22(d)(1) of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 624) struck out the references to fiscal years 1976 and 1977 and added the references to fiscal year 1978.

[645] For text, see page 260.

[646] Sec. 22(d)(2) of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 624) added the words "during the fiscal year 1978", and struck out the following that had previously appeared at this point:

"(A) during the fiscal year 1976 and the period beginning July 1, 1976, and ending September 30, 1976, the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed $125,000,000, and (B) during the fiscal year 1977."

[647] The figure, "$175,000,000", was inserted in lieu of "$125,000,000" by sec. 22(d)(3) of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 624).

[648] For text, see page 613.

[649] For text, see page 291.

[650] Sec. 403 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 757) amended sec. 620(x)(1) beginning with the words "*Provided,* That for the fiscal year * * *". Sec. 620(x)(1) formerly read as follows: *Provided,* That the President is authorized to suspend the provisions of this section and such acts if he determines that such suspension will further negotiations for a peaceful solution of the Cyprus conflict. Any such suspension shall be effective only until February 5, 1975, and only if, during that time, Turkey shall observe the ceasefire and shall neither increase its forces in Cyprus nor transfer to Cyprus any U.S. supplied implements of war."

Sec. 620(A) had previously been amended also at the point beginning with the word "Provided" by sec. 2(c)(1) of Public Law 94-104. However, pursuant to sec. 2(c)(5) of Public Law 94-104, subsec. (c) did not become effective until enactment of foreign assistance legislation authorizing sales, credits, and guaranties under the Foreign Military Sales Act for fiscal year 1976. Such authorization for fiscal year 1976 was not enacted until passage of the International Security Assistance and Arms Export Control Act of 1976. Since sec. 403 of such Act further amended sec. 620(x)(1), the amendments contained in sec. 2(c)(1) of Public Law 94-104 never became effective. See page 613 for complete text of Public Law 94-104.

(2)[651] The President shall submit to the Congress within 60 days after the enactment of this paragraph[652] and at the end of such succeeding sixty-day period, a report on progress made during such period toward the conclusion of a negotiated solution of the Cyprus conflict.

Sec. 620A.[653, 654] **Prohibition on Assistance to Countries Supporting International Terrorism.**—(a) The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, the Export-Import Bank Act of 1945,[655] or the Arms Export Control Act, to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days before the waiver takes effect, shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of the waiver (including the justification for the waiver) in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

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[651] Par. (2) was added by sec. 2(a)(2) of Public Law 94–104.

[652] Par. (2) did not become effective until enactment of the International Security Assistance and Arms Export Control Act of 1976 on June 30, 1976. See sec. 2(c)(5) of Public Law 94–104 (page 615) for explanation of the effective date of par. (2).

[653] 22 U.S.C. 2371. Sec 620A was added by sec. 303 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329, 90 Stat. 753).

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100–202, 101 Stat. 1329–178) provided the following:

"OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

"Sec. 575. (a) Instructions for United States Executive Directors.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

"(b) Definition.—For purposes of this section, the term "international financial institution" includes—

"(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

"(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

"PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

"Sec. 576. Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1988—

"(1) shall not be obligated or expended for assistance to a country listed in section 6(j) of the Export Administration Act of 1979 on the date of enactment of this Act or placed on that list thereafter,

"(2) if obligated before such date as assistance for such country, shall not disbursed, and

"(3) if expended before such date for assistance to be delivered to such country from the United States or by United States nationals, then no such delivery shall be made,

unless such assistance is for humanitarian purposes."

[654] Sec. 620A was amended and restated by sec. 503(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 220). It formerly read:

"Sec. 620A. Prohibition Against Furnishing Assistance to Countries Which Grant Sanctuary to International Terrorists.—(a) Except where the President finds national security to require otherwise, the President shall terminate all assistance under this Act to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism and the President may not thereafter furnish assistance to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for assistance under this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

"(b) If the President finds that national security justifies a continuation of assistance to any government described in subsection (a), he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate."

[655] The reference to the Export-Import Bank Act of 1945 was added by sec. 521 of the Further Continuing Appropriations, 1986 (Public Law 99–190, 99 Stat. 1305).

(c) If sanctions are imposed on a country pursuant to subsection (a) because of its support for international terrorism, the President should call upon other countries to impose similar sanctions on that country.

Sec. 620B.[656] **Prohibition Against Assistance and Sales to Argentina.**—* * * [Repealed—1981]

Sec. 620C.[657] **United States Policy Regarding the Eastern Mediterranean.**—(a) The Congress declares that the achievement of a just and lasting Cyprus settlement is and will remain a central objective of United States foreign policy. The Congress further declares that any action of the United States with respect to section 620(x) of this Act shall not signify a lessening of the United States commitment to a just solution to the conflict on Cyprus but is authorized in the expectation that this action will be conducive to achievement of a Cyprus solution and a general improvement in relations among Greece, Turkey, and Cyprus and between those countries and the United States. The Congress finds that—

(1) a just settlement on Cyprus must involve the establishment of a free and independent government on Cyprus and must guarantee that the human rights of all of the people of Cyprus are fully protected;

(2) a just settlement on Cyprus must include the withdrawal of Turkish military forces from Cyprus;

(3) the guidelines for inter-communal talks agreed to in Nicosia in February 1977 and the United Nations resolutions regarding Cyprus provide a sound basis for negotiation of a just settlement on Cyprus;

(4) serious negotiations, under United Nations auspices, will be necessary to achieve agreement in, and implementation of, constitutional and territorial terms within such guidelines; and

(5) the recent proposals by both Cypriot communities regarding the return of the refugees to the city of New Famagusta (Varosha) constitute a positive step and the United States should actively support the efforts of the Secretary General of the United Nations with respect to this issue.

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[656] Sec. 620B, as added by sec. 11 of Public Law 95-92 (91 Stat. 619) and amended by sec. 12(c)(1) of Public Law 95-384 (92 Stat. 737), was repealed by sec. 725(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1553). Sec. 620B had prohibited the furnishing of MAP, ESF, IMET, and Peacekeeping assistance under this Act, and the extension of credits, sales, or export licenses under the Arms Export Control Act for Argentina after September 30, 1978. See Sec. 725(b) of Public Law 97-113 new text placing conditions on U.S. assistance and sales to Argentina.

[657] 22 U.S.C. 2373. Sec. 620C was added by sec. 13(b) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 737).

For related legislation, see sec. 569, "Maintenance of Military Balance of Eastern Mediterranean", and sec. 579, "Turkish and Greek Military Forces on Cyprus" of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268), pages 563 and 568, respectively.

(b) United States policy regarding Cyprus, Greece, and Turkey shall be directed toward the restoration of a stable and peaceful atmosphere in the Eastern Mediterranean region and shall therefore be governed by the following principles:

(1) The United States shall actively support the resolution of differences through negotiations and internationally established peaceful procedures, shall encourage all parties to avoid provocative actions, and shall strongly oppose any attempt to resolve disputes through force or threat of force.

(2) The United States will accord full support and high priority to efforts, particularly those of the United Nations, to bring about a prompt, peaceful settlement on Cyprus.

(3) All defense articles furnished by the United States to countries in the Eastern Mediterranean region will be used only in accordance with the requirements of this Act, the Arms Export Control Act, and the agreements under which those defense articles were furnished.

(4) The United States will furnish security assistance for Greece and Turkey only when furnishing that assistance is intended solely for defensive purposes, including when necessary to enable the recipient country to fulfill its responsibilities as a member of the North Atlantic Treaty Organization, and shall be designed to ensure that the present balance of military strength among countries of the region, including between Greece and Turkey, is preserved. Nothing in this paragraph shall be construed to prohibit the transfer of defense articles to Greece or Turkey for legitimate self defense or to enable Greece or Turkey to fulfill their North Atlantic Treaty Organization obligations.

(5) The United States shall use its influence to ensure the continuation of the ceasefire on Cyprus until an equitable negotiated settlement is reached.

(6) The United States shall use its influence to achieve the withdrawal of Turkish military forces from Cyprus in the context of a solution to the Cyprus problem.

(c) Because progress toward a Cyprus settlement is a high priority of United States policy in the Eastern Mediterranean, the President and the Congress shall continually review that progress and shall determine United States policy in the region accordingly. To facilitate such a review the President shall, within 60 days after the date of enactment of this section and at the end of each succeeding 60-day period, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on progress made toward the conclusion of a negotiated solution of the Cyprus problem. Such transmissions shall include any relevant reports prepared by the Secretary General of the United Nations for the Security Council.

(d) In order to ensure that United States assistance is furnished consistent with the policies established in this section, the President shall, whenever requesting any funds for security assistance under this Act or the Arms Export Control Act for Greece and Turkey, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate his certification, with a full explanation thereof, that the furnishing of such assistance will be consistent with the principles set forth in subsection (b). The President shall also submit such a certification with any notification to the Congress, pursuant to section 36(b) of the Arms Export Control Act, of a proposed sale of defense articles or services to Greece or Turkey.

(e)[658] (1) Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this provision shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus.

(2) The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this subsection.

Sec. 620D.[659] **Prohibition on Assistance to Afghanistan.**—(a) None of the funds authorized to be appropriated under this Act may be used to furnish assistance to Afghanistan nor may funds authorized to be appropriated under this Act before October 1, 1979, be expended for assistance to Afghanistan until the President certifies to the Congress that—

(1) the Government of Afghanistan has apologized officially and assumes responsibility for the death of Ambassador Adolph Dubs; and

(2) the Government of Afghanistan agrees to provide adequate protection for all personnel of the United States Government in Afghanistan.

(b) The provisions of subsection (a) shall not apply if the President determines that such assistance is in the national interest of the United States because of substantially changed circumstances in Afghanistan.

Sec. 620E.[660] **Assistance to Pakistan.**—(a) The Congress recognizes that Soviet Forces occupying Afghanistan pose a security threat to Pakistan. The Congress also recognizes that an independent and democratic Pakistan with continued friendly ties with the United States is in the interest of both nations. The Congress finds that United States assistance will help Pakistan maintain its independence. Assistance to Pakistan is intended to benefit the people of Pakistan by helping them meet the burdens imposed by the presence of Soviet forces in Afghanistan and by promoting economic development. In authorizing assistance to Pakistan, it is the intent of Congress to promote the expeditious restoration of full civil liberties and representative government in Pakistan. The Congress further recognizes that it is in the mutual interest of Pakistan and the United States to avoid the profoundly destabilizing effects of the proliferation of nuclear explosive devices or the capacity to manufacture or otherwise acquire nuclear devices.

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[658] Subsec. (e) was added by sec. 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-171).

[659] 22 U.S.C. 2374. Sec. 620D was added by sec. 505 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 378).

[660] 22 U.S.C. 2375. Sec. 620E was added by sec. 736 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1561). The President exercised his authority under subsec. (d) on Feb. 11, 1982.

(b) The United States reaffirms the commitment made in its 1959 bilateral agreement with Pakistan relating to aggression from a Communist or Communist-dominated state.

(c) Security assistance for Pakistan shall be made available in order to assist Pakistan in dealing with the threat to its security posed by the Soviet presence in Afghanistan. The United States will take appropriate steps to ensure that defense articles provided by the United States to Pakistan are used for defensive purposes.

(d) The President may waive the prohibitions of section 669 of this Act at any time during the period beginning on the date of enactment of this section and ending on April 1, 1990, [661] to provide assistance to Pakistan during that period if he determines that to do so is in the national interest of the United States.

(e) [662] No assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology is to be sold or transferred, that Pakistan does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device.

Chapter 2—Administrative Provisions

Sec. 621.[663] Exercise of Functions.[664]—(a) [665] The President may exercise any functions conferred upon him by this Act through such agency or officer of the United States Government as he shall direct. The head of any such agency or such officer may from time to time promulgate such rules and regulations as may be necessary to carry out such functions and may delegate authority to perform any such functions, including, if he shall so specify, the authority successively to redelegate any of such functions to any of his subordinates. In providing technical assistance under this Act, the head of any such agency or such officer shall utilize, to the fullest extent practicable, goods and professional and other services from private enterprise on a contract basis. In such fields as education, health, housing, or agriculture, the facilities and resources of other Federal agencies shall be utilized when such facilities are particularly or uniquely suitable for technical assistance, are not competitive with private enterprise, and can be made available without interfering unduly with domestic programs.[666]

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[661] The date "April 1, 1990" was substituted in lieu of "September 30, 1987" by sec. 557 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-170).

Presidential Determination No. 88-5 of January 15, 1988, 53 F.R. 3325, certified that the provision of assistance to Pakistan through April 1, 1990, is in the national interest and waived the prohibitions of section 669 of this Act.

[662] Subsec. (e) was added by sec. 902 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 268). Presidential Determinations No. 86-3 of November 25, 1985; No. 88-4 of December 17, 1987; and 89-7 of November 18, 1988, 53 F.R. 49111; certified that Pakistan does not have a nuclear explosive device and that U.S. assistance would reduce significantly the risk that Pakistan will possess a nuclear explosive device.

[663] 22 U.S.C. 2381.

[664] Sec. 302(a) of the FA Act of 1962 struck out subsection designation "(a)" and repealed subsecs. (b), (c), (d), and (e).

[665] Subsec. designation "(a)" and subsec. (b) were added by the sec. 302(a) of the FA Act of 1968.

(b)[665] The President shall issue and enforce regulations determining the eligibility of any person to receive funds made available under this Act. A person may be suspended under such regulations for a temporary period pending the completion of an investigation and any resulting judicial or debarment proceedings, upon cause for belief that such person or an affiliate thereof probably has undertaken conduct which constitutes a cause for debarment; and, after an opportunity has been afforded to such person for a hearing, he may be debarred for an additional period, not to exceed three years. Among the causes for debarment shall be (1) offering or accepting a bribe or other illegal payment or credit in connection with any transaction financed with funds made available under this Act; or (2) committing a fraud in the procurement or performance of any contract financed with funds made available under this Act; or (3) acting in any other manner which shows a lack of integrity or honesty in connection with any transaction financed with funds made available under this Act. Reinstatement of eligibility in each particular case shall be subject to such conditions as the President shall direct. Each person whose eligibility is denied or suspended under this subsection shall, upon request, be entitled to a review of his eligibility not less often than once every two years.

Sec. 621A.[667] Strengthened Management Practices.—(a) The Congress believes that United States foreign aid funds could be utilized more effectively by the application of advanced management decisionmaking, information and analysis techniques such as systems analysis, automatic data processing, benefit-cost studies, and information retrieval.

(b) To meet this need, the President shall establish a management system that includes: the definition of objectives and programs for United States foreign assistance; the development of quantitative indicators of progress toward these objectives; the orderly consideration of alternative means for accomplishing such objectives; and the adoption of methods for comparing actual results of programs and projects with those anticipated when they were undertaken. The system should provide information to the agency and to Congress that relates agency resources, expenditures, and budget projections to such objectives and results in order to assist in the evaluation of program performance, the review of budgetary requests, and the setting of program priorities.

(c)[668] * * * [Repealed—1978]

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[666] Sec. 302(a) of the FA Act of 1963, substituted the last two sentences in lieu of a former sentence, which read as follows: "In providing technical assistance under this Act in the field of education, health, housing, or agriculture, or in other fields, the head of any such agency or such officer shall utilize, to the fullest extent practicable, the facilities and resources of the Federal agency or agencies with primary responsibilities for domestic programs in such fields."

[667] 22 U.S.C. 2381a. Sec. 621A was added by sec. 302(b) of the FA Act of 1968.

[668] Subsec. (c), which had called for an annual report from the President regarding the implementation of this section, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 959).

Sec. 622.[669] **Coordination With Foreign Policy.**—(a) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(b) The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission. The Chief of the Diplomatic Mission shall make sure that recommendations of such representatives pertaining to military assistance (including civic action) and military education and training programs [670] are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires.

(c) [671] Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

Sec. 623.[672] **The Secretary of Defense.**—(a) In the case of assistance under part II of this Act, the Secretary of Defense shall have primary responsibility for—

(1) the determination of military end-item requirements;

(2) the procurement of military equipment in a manner which permits its integration with service programs;

(3) the supervision of end-item use by the recipient countries;

(4) the supervision of the training of foreign military and related civilian [673] personnel;

(5) the movement and delivery of military end-items; and

(6) within the Department of Defense, the performance of any other functions with respect to the furnishing of military assistance, education and training.[674]

(b) The establishment of priorities in the procurement, delivery, and allocation of military equipment shall be determined by the Secretary of Defense.

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[669] 22 U.S.C. 2382.

[670] Sec. 302(a)(1) of the FA Act of 1966 substituted "(including civic action) or sales programs" for "(including any civil action and sales program)". Sec. 45(b)(1) of the Foreign Military Sales Act (Public Law 90–629) struck out "or sales" which appeared before the word "programs". Sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 added the words "and military education and training".

[671] Subsec. (c) was amended by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329, 90 Stat. 733). It formerly read: "Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance and military assistance programs, including but not limited to determining whether there shall be a military assistance (including civic action) program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby."

The responsibility of the Secretary of State under this subsection, insofar as it relates to development assistance, was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[672] 22 U.S.C. 2383.

[673] The words "and related civilian" were added by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329, 90 Stat. 733).

[674] The words ", education and training" were added by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329, 90 Stat. 733).

Sec. 624.[675] **Statutory Officers.**—(a) The President may appoint, by and with the advice and consent of the Senate, twelve officers [676] in the agency primarily responsible for administering part I, * * * [Repealed—1964]

(1) * * * [Repealed—1964]

(2) * * * [Repealed—1964]

(3) * * * [Repealed—1964] [677] and in the selection of one of such persons due consideration shall be given to persons qualified as professional engineers.

(b) Within the limitations established by subsection (a) of this section, the President may fix the rate of compensation, and may designate the title of, any officer appointed pursuant to the authority contained in that subsection. The President may also fix the order of succession among the officers provided for in [678] subsection (a) of this section in the event of the absence, death, resignation, or disability of one or more of said officers.

(c) Any person who was appointed by and with the advice and consent of the Senate, to any statutory position authorized by any provision of law repealed by section 642(a) and who is serving in one of such positions at the time of transfer of functions pursuant to subsections (c) and (d) of section 621, may be appointed by the President to a comparable position authorized by subsection (a) of this section on the date of the establishment of the agency primarily responsible for administering part I, without further action by the Senate.

(d) [679] * * * [Repealed—1978]

(e) [680] In addition to the officers otherwise provided for in this section, the President shall appoint, by and with the advice and consent of the Senate, one officer for the purpose of coordinating security assistance programs.

(f) [681] (1) [682] There shall be in the Department of State an Assistant Secretary of State for Human Rights and Humanitarian Af-

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[675] 22 U.S.C. 2384.

[676] Sec. 7 of Reorganization Plan No. 2 of 1979 stated:

"One of the positions that the President may appoint under section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a), 5 U.S.C. 5315(5)) is hereby abolished."

[677] That part of sec. 624(a) to this point, beginning with the words "of whom—" was repealed by sec. 305(42) of the Government Employees Salary Reform Act of 1964 (Public Law 88-426). The repealed part read as follows:

"of whom—

"(1) one shall have the rank of an Under Secretary and shall be compensated at a rate not to exceed the rate authorized by law for any Under Secretary of an Executive Department;

"(2) one shall have the rank of a Deputy Under Secretary and shall be compensated at a rate not to exceed the rate authorized by law for any Deputy Under Secretary of an Executive Department; and

"(3) ten shall have the rank of Assistant Secretaries and shall be compensated at a rate not to exceed the rate authorized by law for any Assistant Secretary of an Executive Department,".

[678] Sec. 302(b)(1) of the FA Act of 1965 struck out the words "paragraph (3) of" which appeared at this point, and also substituted "or one or more of said officers" for "of the officers provided for in paragraphs (1) and (2) of that subsection".

[679] Subsec. (d), which concerned the office of Inspector General, Foreign Assistance, was repealed, effective July 1, 1978, by sec. 124(a) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 541).

[680] Subsec. (e) was added by sec. 302 of the FA Act of 1971.

[681] Subsec. (f) was added by sec. 301(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 750).

[682] Par. (1) was amended and restated by sec. 109(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105, 91 Stat. 846). It formerly read as follows:

"(1) There is established in the Department of State a Coordinator for Human Rights and Humanitarian Affairs. The Coordinator shall be appointed by the President with the advice and

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fairs who shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy. The Secretary of State shall carry out his responsibility under section 502B of this Act through the Assistant Secretary.

(2) The Assistant Secretary of State for Human Rights and Humanitarian Affairs [683] shall maintain continuous observation and review of all matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy including—

(A) gathering detailed information regarding humanitarian affairs and the observance of and respect for internationally recognized human rights in each country to which requirements of sections 116 and 502B of this Act are relevant;

(B) preparing the statements and reports to Congress required under section 502B of this Act;

(C) making recommendations to the Secretary of State and the Administrator of the Agency for International Development [684] regarding compliance with sections 116 and 502B of this Act, and as part of the Assistant Secretary's overall policy responsibility for the creation of United States Government human rights policy, advising the Administrator of the Agency for International Development on the policy framework under which section 116(e) projects are developed and consulting with the Administrator on the selection and implementation of such projects;[685] and

(D) performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries.

(g) [686] * * * [Repealed—1981]

Sec. 625.[687] **Employment of Personnel.**—(a) Any agency or officer of the United States Government carrying out functions under this Act is authorized to employ such personnel as the President deems necessary to carry out the provisions and purposes of this Act.

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consent of the Senate. He shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy. The Secretary of State shall carry out his responsibility under section 502B of this Act through the Coordinator for Human Rights and Humanitarian Affairs."

[683] The title designation of Assistant Secretary of State was inserted in lieu of Coordinator by sec. 109(a)(1)(B) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105, 91 Stat. 846).

[684] This responsibility of the Administrator was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[685] The words to this point beginning with ", and as part of the Assistant Secretary's overall policy responsibility * * *" were added by sec. 1002(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164, 97 Stat. 1052).

[686] Subsec. (g), as added by sec. 504 of Public Law 95–424 (92 Stat. 959) and amended by sec. 706 of Public Law 96–536 (94 Stat. 3158), was repealed by sec. 705(b)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1545). Subsec. (g) formerly concerned the responsibilities and duties of the Inspector General of AID. Similar language can now be found at sec. 8A of the Inspector General Act of 1978. See Volume IV, Sec. N. for text.

[687] 22 U.S.C. 2385.

(b) Of the personnel employed in the United States to carry out part I or coordinate part I and part II, not to exceed one hundred and ten [688] may be appointed, compensated or removed without regard to the provisions of any law, of whom not to exceed fifty-one may be compensated at rates higher than those provided for grade 15 of the general schedule established by section 5332 of title 5 of the United States Code,[689] but not in excess of the highest rate of grade 18 of such general schedule: [690] *Provided,* That, under such regulations as the President shall prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5 of the United States Code.[691]

(c) Of the personnel employed in the United States to carry out part II, or any Act superseding part II in whole or in part,[692] not to exceed eight may be compensated at rates higher than those provided for grade 15 of the general schedule established by section 5332 of title 5 of the United States Code, but not in excess of the highest rate of grade 18 of such general schedule.[693] Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5 of the United States Code.[694]

(d) [695] For the purpose of performing functions under this Act outside the United States, the President may employ or assign individuals, or may authorize the employment or assignment of officers or employees by agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates provided for under section 402 or section 403 of the Foreign Service Act of 1980, or under chapter 53 of title 5, United States Code, or at any other rate authorized by law, together with allowances and benefits under the Foreign Service Act of 1980.[696] Individuals so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act for individuals appointed to the Foreign Service.

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[688] Sec. 301(c)(1) of the FA Act of 1962 substituted "one hundred and ten" in lieu of "seventy-six".

[689] Sec. 302(b)(1) of the FA Act of 1967 substituted, "Section 5332 of title 5 of the United States Code" in lieu of "the Classification Act of 1949, as amended (5 U.S.C. 1071 et seq.)".

[690] Sec. 1001(k)(1) of the Postal Service and Federal Employees Salary Act of 1962 (Public Law 87-793) substituted the words "but not in excess of the highest rate of grade 18 of such general schedule" in lieu of "and of these, not to exceed eight may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of $19,000 per year".

[691] Sec. 302(b)(2) of the FA Act of 1967 substituted "5108 of title 5 of the United States Code" in lieu of "505 of the Classification Act of 1949, as amended".

[692] The words "or any Act superseding part II in whole or in part," were added by sec. 302(c) of the FA Act of 1968.

[693] Sec. 302(c)(1) of the FA Act of 1967 substituted "section 5332 of title 5 of the United States Code" in lieu of "the Classification Act of 1949, as amended".

Sec. 1001(k)(2) of the Postal Service and Federal Employees Salary Act of 1962 (Public Law 87-793) substituted the words "but not in excess of the highest rate of grade 18 of such general schedule" in lieu of "and if these, not to exceed three may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of $19,000 per year".

[694] Sec. 302(c)(2) of the FA Act of 1967 substituted "5108 of title 5 of the United States Code" in lieu of "505 of the Classification Act of 1949, as amended".

[695] Subsec. (d) was amended and restated by sec. 2203(a) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2158). Subsec. (d) had previously been amended by the FA Act of 1962, the FA Act of 1964, the FA Act of 1967, and by the International Development and Food Assistance Act of 1977.

(e) [697] * * * [Repealed—1981]

(f) [698] Funds provided for in agreements with foreign countries for the furnishing of services under this Act with respect to specific projects shall be deemed to be obligated for the services of personnel employed by agencies of the United States Government (other than the agencies primarily responsible for administering part I or part II of this Act) as well as personnel not employed by the United States Government.

(g) [699] * * * [Repealed—1981]

(h) Notwithstanding any other provision of law, officers and employees of the United States Government performing functions under this Act shall not accept from any foreign country any compensation or other benefits. Arrangements may be made by the President with such countries for reimbursement to the United States Government or other sharing of the cost of performing such functions.

(i) To the maximum extent practicable officers and employees performing functions under this Act abroad shall be assigned to countries and positions for which they have special competence, such as appropriate language and practical experience.

(j) [700] * * * [Repealed—1981]

(k) [701] * * * [Repealed—1980]

Sec. 626.[702] Experts, Consultants, and Retired Officers.—(a) Experts and consultants or organizations thereof may, as authorized by section 3109 of title 5 of the United States Code,[703] be employed for the performance of functions under this Act, and individuals so employed may be compensated at rates not in excess of the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5, United States Code,[704] and while away from their homes or regular places of business, they may be paid actual travel expenses and per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended from time to time. Contracts for such employment with such organizations, employment of personnel as experts and consultants, not to exceed ten in number, contracts for such employment of retired military personnel with specialized research and development experience, not to exceed ten in number, and contracts for such employment of retired military personnel with specialized experience of a broad politico-military nature, not to exceed five in number, may be renewed annually.

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[696] The references in this sentence to chapter 53 of title 5, U.S. Code, and "any other rate authorized by law" were added by sec. 703 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1544).

[697] Subsec. (e), which authorized the President to prescribe standards for maintaining adequate performance levels of specified personnel, was repealed by sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160).

[698] Sec. 625(f) was amended by sec. 302(c)(3) of the FA Act of 1962. It formerly read as follows: "Funds provided for in agreements with foreign countries for the furnishing of services under this Act shall be deemed to be obligated for the services of personnel employed by the United States Government as well as other personnel".

[699] Subsec. (g), which concerned foreign language competence of personnel carrying out functions under this Act, was repealed by sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160).

[700] Subsec. (j), as added by the FA Act of 1964 and which had concerned the Presidential appointment of U.S. representatives to the Inter-American Committee on the Alliance for Progress, was repealed by sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160).

[701] Subsec. (k), as added by the FA Act of 1973 and which designated certain categories of personnel serving in the agency as being eligible to participate in the Foreign Service Retirement and Disability System, was repealed by sec. 2205(8) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2160). While nearly all provisions of the Foreign Service Act of 1980 were not effective until Feb. 15, 1981, sec. 2203(d)(1) of such Act specified that the repeal of sec. 625(k) would be effective on the date of enactment of the Act (Oct. 17, 1980).

[702] 22 U.S.C. 2386.

[703] Sec. 302(e)(1) of the FA Act of August 1967 substituted "3109 of title 5 of the United States Code" in lieu of "15 of the Act of August 22, 1946, as amended (5 U.S.C. 55a)".

(b) [705] Service of an individual as an expert or consultant under subsection (a) of this section shall not [706] be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) [707] of title 5 of the United States Code.

(c) [708] Persons of outstanding experience and ability may be employed without compensation by any agency of the United States Government for the performance of functions under this Act in accordance with the provisions of section 710(b) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2160(b)), and regulations issued thereunder.

Sec. 627.[709] Detail of Personnel to Foreign Governments.—Whenever the President determines it to be in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail or assign any officer or employee of his agency to any office or position with any foreign government or foreign government agency, where acceptance of such office or position does not involve the taking of an oath of allegiance to another government or the acceptance of compensation or other benefits from any foreign country by such officer or employee.

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[704] The words to this point beginning with "the daily equivalent of the highest rate" were substituted in lieu of "$100 per diem" by sec. 603 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329, 90 Stat. 766).

[705] Sec. 302(c)(1) of the FA Act of 1963 struck out the first sentence of this section since the subject matter was superseded by Public Law 87–849, approved Oct. 23, 1962. The first sentence formerly read as follows: "Service of an individual as an expert or consultant under subsection (a) of this section shall not be considered as service or employment bringing such individual within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation in respect of any particular matter in which such individual was directly involved in the performance of such service."

[706] The words "Service of an individual as an expert or consultant under subsection (a) of this section shall not" were substituted for the words "Nor shall such service" by sec. 302(c)(2) of the FA Act of 1963.

[707] Sec. 126 of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 542) added the words "section 3323(a)" and struck out the following:

"Sections 3323(a) and 8344 of title 5 of the United States Code, section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, subject to section 5532."

[708] Sec. 302(d) of the FA Act of 1965 redesignated subsec. (d) as subsec. (c). Former subsec. (c), which related to employment of retired officers, was repealed by the Dual Compensation Act (Public Law 88–448), Aug. 19, 1964.

[709] 22 U.S.C. 2387.

Sec. 628.[710] **Detail of Personnel to International Organizations.**—Whenever the President determines it to be consistent with and in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail, assign, or otherwise make available to any international organization any officer or employee of his agency to serve with, or as a member of, the international staff of such organization, or to render any technical, scientific, or professional advice or service to, or in cooperation with, such organization.

Sec. 629.[711] **Status of Personnel Detailed.**—(a) Any officer or employee, while assigned or detailed under section 627 or 628 of this Act, shall be considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits as such, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and he shall continue to receive compensation, allowances, and benefits from funds appropriated to that agency or made available to that agency under this Act.

(b) Any officer or employee assigned, detailed, or appointed under section 627, 628, 631, or 624(d) [712] of this Act is authorized to receive under such regulations as the President may prescribe, representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980.[713] The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5 of the United States Code.[714]

Sec. 630.[715] **Terms of Detail or Assignment.**—Details or assignments may be made under section 627 or 628 of this Act or section 408 of the Mutual Security Act of 1954, as amended— [716]

(1) without reimbursement to the United States Government by the foreign government or international organization;

(2) upon agreement by the foreign government or international organization, to reimburse the United States Government for compensation, travel expenses, benefits,[717] and allowances, or any part thereof, payable to the officer or employee concerned during the period of assignment or detail; and such reimbursements (including foreign currencies) shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, benefits,[717] or allowances, or to the appropriation, fund, or account currently available for such purposes;

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[710] 22 U.S.C. 2388.

[711] 22 U.S.C. 2389.

[712] Sec. 302(d) of the FA Act of 1962 substituted "624(d)" for "624(e)".

[713] The reference to sec. 905 of the Foreign Service Act of 1980 was substituted in lieu of a reference to sec. 901 of the Foreign Service Act of 1946 by sec. 2203(b) of the Foreign Service Act of 1980 (Public Law 96–465, 94 Stat. 2158).

[714] Sec. 302(f) of the FA Act of 1967 substituted "5536 of title 5 of the United States Code" in lieu of "1765 of the Revised Statutes (5 U.S.C. 70)".

[715] 22 U.S.C. 2390.

[716] For text, see page 595.

[717] The word "benefits" was added by sec. 302(e) of the FA Act of 1965.

(3) upon an advance of funds, property, or services by the foreign government or international organization to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this Act; and funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be available for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this Act, any unexpended balance of such account to be returned to the foreign government or international organization; or

(4) subject to the receipt by the United States Government of a credit to be applied against the payment by the United States Government of its share of the expenses of the international organization to which the officer or employee is detailed or assigned, such credit to be based upon the compensations, travel expenses, benefits [717] and allowances, or any part thereof, payable to such officer or employee during the period of detail or assignment in accordance with section 629.

Sec. 631.[718] Missions and Staffs Abroad.—(a) The President may maintain special missions or staffs outside the United States in such countries and for such periods of time as may be necessary to carry out the purposes of this Act. Each such special mission or staff shall be under the direction of a chief.

(b) The chief and his deputy of each special mission or staff carrying out the purposes of part I shall be appointed by the President, and may, notwithstanding any other law, be removed by the President at his discretion. Such chief shall be entitled to receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President shall determine to be appropriate.[719]

(c) [720] The President may appoint any United States citizen who is not an employee of the United States Government or may assign any United States citizen who is a United States Government employee to serve as Chairman of the Development Assistance Committee or any successor committee thereto of the Organization for Economic Cooperation and Development upon election thereto by members of said Committee, and, in his discretion, may terminate such appointment or assignment, notwithstanding any other provision of law. Such person may receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President shall determine to be appropriate. Such person (if not a United States Government employee who is assigned to serve as Chairman) shall be deemed to be an employee of the United States Government for purposes of chapters

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[718] 22 U.S.C. 2391.

[719] This sentence was amended and restated by sec. 2203(c) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2158). The former text made reference to the Foreign Service Act of 1946 which was repealed by the 1980 Act.

[720] Subsec. (c) was added by sec. 302(d) of the FA Act of 1963.

81, 83, 87, and 89 of title 5, United States Code.[721] Such person may also, in the President's discretion, receive any other benefits and perquisites available under this Act to chiefs of special missions or staffs outside the United States established under this section.

(d) [722] Wherever practicable, especially in the case of the smaller programs, assistance under part I of this Act [723] shall be administered under the direction of the Chief of the United States Diplomatic Mission by the principal economic officer of the mission.[724]

Sec. 632.[725] Allocation and Reimbursement Among Agencies.—(a) The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act, including any advance to the United States Government by any country or international organization for the procurement of commodities, defense articles, military education and training,[726] or services (including defense services). Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(b) Any officer of the United States Government carrying out functions under this Act may utilize the services (including defense services) and facilities of, or procure commodities, defense articles, or military education and training [727] from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency, and funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

(c) In the case of any commodity, service, or facility procured from any agency of the United States Government to carry out part I, reimbursement or repayment shall be made to such agency from funds available to carry out such part. Such reimbursement or payment shall be at replacement cost, or, if required by law, at actual cost, or, in the case of services procured from the Department of Defense to carry out chapter 8 of part I, the amount of the additional costs incurred by the Department of Defense in providing such services,[728] or at any other price authorized by law and agreed to by the owning or disposing agency. The amount of any such reimbursement or payment shall be credited to current applicable appropriations, funds, or accounts, from which there may be procured replacements of similar commodities, services, or facilities, except that where such appropriations, funds, or accounts are not reimbursable except by reason of this subsection, and when the owning or disposing agency determines that such replacement is not necessary, any funds received in payment therefor shall be deposited into the Treasury as miscellaneous receipts.

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[721] This sentence was amended and restated by sec. 2203(d) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2158). The former text made reference to the Foreign Service Act of 1946 which was repealed by the 1980 Act.

[722] Subsec. (d) was added by sec. 302(f) of the FA Act of 1965.

[723] The reference to "part I" was added by sec. 7(b)(1) of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 617).

[724] The words "in the case of assistance under part I, and by the senior military officer of the mission in the case of assistance under part II", which had previously appeared at this point, were struck out by sec. 7(b)(2) of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 617).

[725] 22 U.S.C. 2392.

[726] The words ", military education and training" were added by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 733).

[727] The words ", defense articles, or military education and training" were substituted in lieu of "and defense articles" by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 733).

[728] Sec. 4506 of Public Law 100-690, 102 Stat. 4286, added "or, in the case of * * *,".

(d) Except as otherwise provided in section 506,[729] reimbursement shall be made to any United States Government agency, from funds available for use under part II, for any assistance furnished under part II from, by, or through such agency. Such reimbursement shall be in an amount equal to the value (as defined in section 644(m)) of the defense articles or of the defense services (other than salaries of members of the Armed Forces of the United States), or other assistance furnished, plus expenses arising from or incident to operations under part II. The amount of such reimbursement shall be credited to the current applicable appropriations, funds, or accounts of such agency.

(e) In furnishing assistance under this Act, accounts may be established on the books of any agency of the United States Government or, on terms and conditions approved by the Secretary of the Treasury, in banking institutions in the United States, (1) against which letters of commitment may be issued which shall constitute recordable obligations of the United States Government, and moneys due or to become due under such letters of commitment shall be assignable under the Assignment of Claims Act of 1940, as amended (second and third paragraphs of 31 U.S.C. 203 and 41 U.S.C. 15), and (2) from which disbursements may be made to, or withdrawals may be made by, recipient countries or agencies, organizations, or persons upon presentation of contracts, invoices, or other appropriate documentation. Expenditure of funds which have been made available through accounts so established shall be accounted for on standard documentation required for expenditure of funds of the United States Government: *Provided,* That such expenditures for commodities, defense articles, military education and training services (including defense services), or facilities procured outside the United States may be accounted for exclusively on such certification as may be prescribed in regulations approved by the Comptroller General of the United States.

(f) Credits made by the Export-Import Bank of Washington with funds allocated thereto under subsection (a) of this section or under section 522(a) of the Mutual Security Act of 1954, as amended, shall not be considered in determining whether the Bank has outstanding at any one time loans and guaranties to the extent of the limitation imposed by section 7 of the Export-Import Bank Act of 1945,[730] as amended (12 U.S.C. 635e).

(g) Any appropriation or account available to carry out provisions of part I may initially be charged in any fiscal year, within the limit of available funds, to finance expenses for which funds are available in other appropriations or accounts under part I: *Provided*, That as of the end of such fiscal year such expenses shall be finally charged to applicable appropriations or accounts with proper credit to the appropriations or accounts initially utilized for financing purposes: *Provided further*, That such final charge to applicable appropriations or accounts shall not be required in the case of expenses (other than those provided for under section 637(a)) incurred in furnishing assistance by the agency primarily responsible for administering part I where it is determined that the accounting costs of identifying the applicable appropriation or account to which such expenses should be charged would be disproportionate to the advantage to be gained.

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[729] Sec. 45(b)(3) of the Foreign Military Sales Act (Public Law 90-629) substituted "section 506" in lieu of secs. "506, 522, and 523,".

[730] For text, see vol. III, sec. I.

Sec. 633.[731] Waivers of Certain Laws.—(a) Whenever the President determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act, may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 et seq.)), regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.[732]

(b) The functions authorized under part II may be performed without regard to such provisions as the President may specify of the joint resolution of November 4, 1939 (54 Stat. 4), as amended.

(c) Notwithstanding the provisions of sections 3544(b) and 8544(b) of title 10 of the United States Code, personnel of the Department of Defense may be assigned or detailed to any civil office to carry out this Act. [Referenced sections repealed by Public Law 90-235. See 10 U.S.C. 973(b).]

Sec. 633A.[733] Furnishing Information.—None of the funds made available pursuant to the provisions of this Act shall be used to carry out any provision of this Act in any country or with respect to any project or activity, after the expiration of the thirty-five-day period which begins on the date the General Accounting Office or any committee of the Congress charged with considering legislation, appropriations or expenditures under this Act, has delivered to the office of the head of any agency carrying out such provision, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless and until there has been furnished to the General Accounting Office, or to such committee, as the case may be, (1) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested, or (2) a certification by the President that has forbidden the furnishing thereof pursuant to request and his reason for so doing.

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[731] 22 U.S.C. 2393.

[732] See Executive Order 11223 (30 F.R. 6635, signed May 12, 1965); amended by Executive Order 12163 (44 F.R. 56673, signed September 29, 1979); amended by Executive Order 12178 (44 F.R. 71807, signed December 10, 1979).

[733] 22 U.S.C. 2393a. Sec. 502(a)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 957) added the section designated 633A.

Sec. 634.[734] **Annual Report.**—(a) In order that the Congress and the American people may be better and more currently informed regarding American foreign policy and the effectiveness of assistance provided by the United States Government to other countries and to international organizations, the Chairman of the Development Coordination Committee shall prepare and transmit to the Congress, no later than February 1 of each year, as a part of the annual presentation materials for foreign assistance, a report as described in this subsection. This report shall include—[735]

(1)(A) a comprehensive and coordinated review of all United States policies and programs having a major impact on the development of developing countries, including but not limited to bilateral and multilateral assistance, trade, debt, employment, food, energy, technology, population, oceans, environment, human settlements, natural resources, and participation in international agencies concerned with development;

(B) an assessment of the impact of such policies and programs on the well-being of the poor majority in developing countries in accordance with the policy objectives of chapter 1 of part I, including[736] increasing life expectancy and literacy, lowering infant mortality and birth rates, and increasing food production and employment, such assessment to include an evaluation of the extent to which programs under chapter 1 of part I directly benefit the poor majority; and[737]

(C) an assessment of the impact of such policies and programs on economic conditions in the United States, including but not limited to employment, wages, and working conditions;

(2) the dollar value of all foreign assistance and guaranties by category and by country provided or made by the United States Government by any means to all foreign countries and international organizations—

(A) from 1946 to the fiscal year immediately preceding the fiscal year for which the report is required;

(B) as presented to Congress for the immediate preceding fiscal year;

(C) as obligated during the immediately preceding fiscal year;

(D) as planned for the fiscal year in which the report is presented;

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[734] 22 U.S.C. 2394. Sec. 634 was amended and restated by sec. 502(a)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 957). Sec. 305(b) of Public Law 99–83 (99 Stat. 215) (concerning the promotion of immunization and oral rehydration) provided as follows:

"Each annual report required by section 634 of the Foreign Assistance Act of 1961 shall describe the progress achieved during the preceding fiscal year in carrying out section 104(c)(3) of such Act."

[735] Sec. 733(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1559) amended and restated subsec. (a) to this point.

[736] The words "the progressive developing countries are making toward achieving those objectives which are indicative of improved well-being of the poor majority, which objectives shall include but not be limited to" which previously appeared at this point, were struck out by sec. 733(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1559).

[737] The language beginning with "such assessment to include" and ending with "the poor majority" was added by sec. 312(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 216).

(E) as proposed for the fiscal year following the year in which the report is presented; and

(F) [738] of any contract in excess of $100,000 administered by the Agency for International Development which was entered into in the preceding fiscal year without competitive selection procedures, and the reasons for doing so;

(3) a summary of repayments, by country, to the United States from previous foreign assistance loans;

(4) [739] the status of each sale of agricultural commodities on credit terms theretofore made under the Agricultural Trade Development and Assistance Act of 1954 with respect to which there remains outstanding any unpaid obligation; and the status of each transaction with respect to which a loan, contract or guarantee of insurance, or extension of credit (or participation therein) was theretofore made under the Export-Import Bank Act of 1945 with respect to which there remains outstanding any unpaid obligation or potential liability; except that such report shall include individually only any loan, contract, sale, extension of credit, or other transactions listed in this paragraph which is in excess of $1,000,000;

(5)(A) the status of the debt servicing capacity of each country receiving assistance under this Act;

(B) all forms of debt relief granted by the United States with respect to such countries, together with a detailed statement of the specific debt relief granted with respect to each such country and the purpose for which it was granted; and

(C) a summary of the net aid flow from the United States to such countries, taking into consideration the debt relief granted by the United States;

(6) [740] the dollar value of all official development assistance, security assistance, international disaster assistance, refugee assistance, and international narcotic control assistance provided by each government of a country which is a member of the Organization for Economic Cooperation and Development or of the Organization of Petroleum Exporting Countries;

(7) [740] the percentage which each type of assistance described in paragraph (6) represents of (A) the gross national product of each country referred to in paragraph (6), and (B) the budget of the government of such country, as well as the per capita contribution for each country for each type of assistance described in paragraph (6);

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[738] Subpar. (F) was added by sec. 733(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1559).

[739] Par. (4) was amended and restated by sec. 733(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1559). Previously, par. (4) also required information on loans and contracts concerning security assistance under this Act and credits for the procurement of defense articles under the Arms Export Control Act. This information is now required by sec. 25(a)(11) of the Arms Export Control Act. See page 278.

[740] Sec. 707 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3159) redesignated existing par. (6) as par. (8) and added new pars. (6) and (7). Sec. 733(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1559) struck out par. (8) (as redesignated) and inserted new pars. (8) through (12). Similar information required in each of the new pars. (8) through (12) had been previously required under other provisions as follows: par. (8)—sec. 613(c) of this Act (semiannually); par. (9)—sec. 640B(g) of this Act; par. (10)—sec. 657 of this Act; par. (11)—sec. 133(c)(6) of Public Law 95-88; and par. (12)—former par. (8) of this subsection.

(8) [740] the amount of all foreign currencies acquired without payment of dollars on hand of each foreign country as of September 30 of the preceding fiscal year;

(9) [740] the Development Coordination Committee's operations pursuant to section 640B(f) of this Act;

(10) [740] the aggregate dollar value and quantity of grant military assistance, military education and training, and any other defense articles and services furnished under this Act by the United States to each foreign country and international organization for the preceding fiscal year;

(11) [740] information concerning the activities of the Minority Resource Center during the preceding fiscal year; and

(12) [740] other information appropriate to the conduct of the foreign assistance program of the United States Government.

(b) For purposes of this section—

(1) "foreign assistance" means any tangible or intangible item provided by the United States Government to a foreign country or international organization under this or any other Act, including but not limited to any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies of any foreign country which are owned by the United States Government; and

(2) "provided by the United States Government" includes, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit, or guaranty.

Sec. 634A.[741] Notification of Program Changes.—(a) [742] None of the funds appropriated to carry out the purposes of this Act (except for programs under title III or title IV of chapter 2 of part I, chapter 5 of part I, and programs of disaster relief and rehabilitation) or the Arms Export Control Act [743] may be obligated for any activities, programs, projects, types of material assistance, countries, or other operations not justified, or in excess of the amount justified, to the Congress for obligation under this Act or the Arms Export Control Act [743] for any fiscal year unless the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Appropriations of each House of the Congress are notified fifteen days in advance of such obligation. Whenever a proposed reprogramming exceeds $1,000,000 and the total amount proposed for obligation for a country under this Act in a fiscal year exceeds by more than $5,000,000 the amount specified for that country in the report required by section 653(a) of this Act, notifications of such proposed reprogrammings shall specify—

(1) the nature and purpose of such proposed obligation, and

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[741] 22 U.S.C. 23941. Added originally as sec. 671 by the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 543), sec. 634A was redesignated as such and moved to this point by sec. 502(b) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 959).

[742] Subsecs. (b) and (c) were added by sec. 1209(a)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat 278). Sec. 1209(a)(1) of the Act also inserted the designation for subsec. (a) of sec. 634A.

[743] References to the Arms Export Control Act were added by sec. 1209(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 278).

(2) to the extent possible at the time of the proposed obligation, the country for which such funds would otherwise have been obligated.[744]

(b)[742] The notification requirement of this section does not apply to the reprogramming—

(1) of funds to be used for an activity, program, or project under chapter 1 of part I if the amounts to be obligated for that activity, program, or project for that fiscal year do not exceed by more than 10 percent the amount justified to the Congress for that activity, program, or project for that fiscal year; or

(2) of less than $25,000 to be used under chapter 8 of part I, or under chapter 5 of part II, for a country for which a program under that chapter for that fiscal year was justified to the Congress.

(c)[742] The President shall notify the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives concerning any reprogramming of funds in the International Affairs Budget Function, the authorizations of appropriations for which are in their respective jurisdictions, to the same degree and with the same conditions as the President notifies the Committees on Appropriations. The requirements of this subsection are in addition to, and not in lieu of, other notification requirements.

Sec. 634B.[745] **Classification of Reports.**—All information contained in any report transmitted under this Act shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplemental report shall be transmitted to the Congress at the time the report is transmitted.

Sec. 635.[746] **General Authorities.**—(a) Except as otherwise specifically provided in this Act, assistance under this Act may be furnished on a grant basis or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities) as may be determined to be best suited to the achievement of the purposes of this Act, and shall emphasize loans rather than grants wherever possible.

(b) The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, friendly government or government agency, whether within or without the United States and international organizations in furtherance of the purposes and within the limitations of this Act.

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[744] This final sentence in sec. 634A was added by sec. 704 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1544).

[745] 22 U.S.C. 23941a. Sec. 634B was added by sec. 502(c) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 959).

[746] 22 U.S.C. 2395.

(c) It is the sense of Congress that the President, in furthering the purposes of this Act, shall use to the maximum extent practicable the services and facilities of voluntary, nonprofit organizations registered with, and approved by, the Agency for International Development.[747]

(d) The President may accept and use in furtherance of the purposes of this Act, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

(e)(1) [748] Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign participants in any program of furnishing technical information and assistance administered by such agency while such participants are absent from their homes for the purpose of participation in such program.

(2) [748] Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign employees of that agency while those employees are absent from their places of employment abroad for purposes of training or other official duties.

(f) Alien participants in any program of furnishing technical information and assistance under this Act may be admitted to the United States if otherwise qualified as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)), for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

(g) In making loans [749] under this Act, the President—

(1) may issue letters of credit and letters of commitment;

(2) may collect or compromise any obligations assigned to, or held by, and any legal or equitable rights accruing to him, and, as he may determine, refer any such obligations or rights to the Attorney General for suit or collection;

(3) may acquire and dispose of, upon such terms and conditions as he may determine, any property, including any instrument evidencing indebtedness or ownership (provided that equity securities may not be directly purchased although such securities may be acquired by other means such as by exercise of conversion rights or through enforcement of liens or pledges or otherwise to satisfy a previously incurred indebtedness), and guarantee payment against any such instrument;

(4) may determine the character of, and necessity for, obligations and expenditures of funds used in making such loans and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to corporations of the United States Government; and

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[747] The reference to the Agency for International Development was substituted in lieu of a reference to the Advisory Committee on Voluntary Foreign Aid by sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 366).

[748] Sec. 302(i)(1) of the FA Act of 1967 added paragraph designation "(1)" and par. (2).

[749] The words "and sales", which appeared at this point, were added by sec. 302(g) of the FA Act of 1965. Sec. 302(i)(2) of the FA Act of 1967 deleted "and sales" from this point, effective June 30, 1968.

(5) shall cause to be maintained an integral set of accounts which shall be audited by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions as provided by the Government Corporation Control Act, as amended (31 U.S.C. 841 et seq.).

(h) A contract or agreement which entails commitments for the expenditure of funds [750] available under chapter 1 [751] (except development loans) [752] and title II of chapter 2 of part I and under part II may, subject to any future action of the Congress, extend at any time for not more than five years.

(i) Claims arising as a result of investment guaranty operations may be settled, and disputes arising as the result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the President may direct. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) The provisions of section 955 of title 18 of the United States Code shall not apply to prevent any person, including any individual, partnership, corporation, or association, from acting for, or participating in, any operation or transaction arising under this Act, or from acquiring any obligation issued in connection with any operation or transaction arising under this Act.

(k) [753] Any cost-type contract or agreement (including grants) entered into with a university, college, or other educational institution for the purpose of carrying out programs authorized by part I may provide for the payment of the reimbursable indirect costs of said university, college, or other educational institution on the basis of predetermined fixed-percentage rates applied to the total or an element thereof, of the reimbursable direct costs incurred.

Sec. 636.[754] **Provisions on Uses of Funds.**—(a) Appropriations for the purposes of or pursuant to this Act (except for Part II), allocations to any agency of the United States Government, from other appropriations, for functions directly related to the purposes of this Act, and funds made available for other purposes to the agency primarily responsible for administering part I, shall be available for:

(1) rent of buildings and space in buildings in the United States, and for repair, alteration, and improvements of such leased properties;

(2) expenses of attendance at meetings concerned with the purposes of such appropriations of this Act, including (notwithstanding the provisions of section 9 of Public Law 60328 (31 U.S.C. 673)) expenses in connection with meetings and persons whose employment is authorized by section 626;

(3) contracting with individuals for personal service abroad: *Provided,* That such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Civil Service Commission;

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[750] Sec. 302(g) of the FA Act of 1962 deleted the word "made" which appeared after the word "funds".

[751] The reference to chapter 1 was substituted in lieu of a reference to titles V and VI by sec. 102(g)(2)(G) of the International Development and Food Assistance Act of 1978 (92 Stat. 943).

[752] The words "(except development loans)" were added by sec. 302(d) of the FA Act of 1966.

[753] Subsec. (k) was added by sec. 302(e) of the FA Act of 1963.

[754] 22 U.S.C. 2396.

(4) purchase, maintenance, operation, and hire of aircraft: *Provided,* That aircraft for administrative purposes may be purchased only as specifically provided for in an appropriation or other Act;

(5) purchase and hire of passenger motor vehicles: *Provided,* That, except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes outside the United States may be purchased for replacement only, and such vehicles may be exchanged or sold and replaced by an equal number of such vehicles and the cost, including exchange allowance, of each such replacement shall not exceed the current market price in the United States of a mid-sized sedan or station wagon meeting the requirements established by the General Services Administration for a Class III vehicle of United States manufacture (or, if the replacement vehicle is a right-hand drive vehicle, 120 percent of that price) [755] in the case of an automobile for the chief of any special mission or staff outside the United States established under section 631: *Provided further,* That passenger motor vehicles other than one for the official use [756] of the head of the agency primarily responsible for administering part I, may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;

(6) entertainment (not to exceed $25,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act);

(7) exchange of funds without regard to section 3651 of the Revised Statutes (31 U.S.C. 543) and loss by exchange;

(8) expenditures (not to exceed $50,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act) of a confidential character other than entertainment: *Provided,* That a certificate of the amount of such expenditure, the nature of which it is considered inadvisable to specify, shall be made by the head of the agency primarily responsible for administering part I or such person as he may designate, and every such certificate shall be deemed a sufficient voucher for the amount therein specified; [757]

(9) insurance of official motor vehicles or aircraft acquired for use in foreign countries;

(10) rent or lease outside the United States for not to exceed ten years of offices, buildings, grounds, and quarters, including living quarters to house personnel, and payments therefor in advance; maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for use to the

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[755] The words to this point beginning with "the current market price * * *" were substituted in lieu of "$3,500" by sec. 505 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 960).

[756] Public Law 99–550, 100 Stat. 3067, deleted the following phrase: "(without regard to the limitations contained in section 5 of Public Law 63127, as amended (31 U.S.C. 638a(c)(2)), and section 201 of Public Law 85468 (31 U.S.C. 638(c))".

Similar provisions were deleted from sec. 48 of the Arms Control and Disarmament Act. See vol. II, sec. F.

[757] See also sec. 614(a) of this Act. See page 193.

United States Government outside the United States; and costs of fuel, water, and utilities for such properties;

(11) expenses of preparing and transporting to their former homes, or, with respect to foreign participants engaged in any program under part I, to their former homes or places of burial, and of care and disposition of, the remains of persons or members of the families of persons who may die while such persons are away from their homes participating in activities carried out with funds covered by this subsection;

(12) purchase of uniforms;

(13) payment of per diem in lieu of subsistence to foreign participants engaged in any program under part I while such participants are away from their homes in countries other than the United States, at rates not in excess of those prescribed by the standardized Government travel regulations, notwithstanding any other provision of law;

(14) use in accordance with authorities of the Foreign Service Act of 1980 [758] (22 U.S.C. 3901 et seq.) not otherwise provided for;

(15) ice and drinking water for use outside the United States;

(16) services of commissioned officers of the Environmental Science Services Administration and for the purposes of providing such services to the Environmental Science Services Administration [759] may appoint not to exceed twenty commissioned officers in addition to those otherwise authorized;

(17) expenses in connection with travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel), and transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting automobiles to and from a place of storage, and the cost of storing automobiles of such personnel when it is in the public interest or more economical to authorize storage.

(b) Funds made available for the purposes of this Act may be used for compensation, allowances, and travel of personnel including Foreign Service personnel whose services are utilized primarily for the purposes of this Act, for printing and binding without regard to the provisions of any other law, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of funds of the United States Government as may be necessary to accomplish the purposes of this Act.

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[758] Sec. 1211(b)(1) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 279) substituted the reference to the 1980 Act which updated a reference to the 1946 version of the Act which had been repealed and replaced by the 1980 version.

[759] Sec. 302(k) of the FA Act of 1967 substituted "Environmental Science Service Administration" in lieu of "Coast and Geodetic Survey."

(c) Notwithstanding any other law, not to exceed $6,000,000 [760] of the funds available for assistance under this Act [761] may be used in any fiscal year (in addition to funds available for such use under other authorities in this Act) to construct or otherwise acquire outside the United States (1) essential living quarters, office space, and necessary supporting facilities for use of personnel carrying out activities authorized by this Act, and (2) schools (including dormitories and boarding facilities) and hospitals for use of personnel carrying out activities authorized by this Act, United States Government personnel, and their dependents. In addition, funds made available for assistance under this Act [761] may be used, notwithstanding any other law, to equip, staff, operate, and maintain such schools and hospitals.

(d) Not to exceed $2,500,000 [762] of funds available for assistance under this Act [761] may be used in any fiscal year to provide assistance, on such terms and conditions as are deemed appropriate, to schools established, or to be established, outside the United States whenever it is determined that such action would be more economical or would best serve the interests of the United States in providing for the education of dependents of personnel carrying out activities authorized by this Act and dependents of United States Government personnel, in lieu of acquisition or construction pursuant to subsection (c) of this section.

(e) Funds available under this Act [761] may be used to pay costs of training United States citizen personnel employed or assigned pursuant to section 625(d)(2) (through interchange or otherwise) at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firm; and the provisions of Public Law 84918 (7 U.S.C. 1881 et seq.) may be used to carry out the foregoing authority notwithstanding that interchange of personnel may not be involved or that the training may not take place at the institutions specified in that Act. Such training shall not be considered employment or holding of office under section 5533 of title 5 of the United States Code,[763] and any payments or contributions in connection therewith may, as deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency: *Provided, however,* That any such payments to any employee in the nature of compensation shall be in lieu, or in reduction, of compensation received from the United States Government.

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[760] The figure $6,000,000 was substituted in lieu of $3,000,000 by title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329).

[761] The words "(other than title I of chapter 2 of part I)", which previously appeared at this point, were struck by sec. 102(g)(2) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 943).

[762] Sec. 302(l) of the FA Act of 1967 substituted "$2,500,000" in lieu of "$1,500,000".

[763] Sec. 302(m) of the FA Act of 1967 substituted "5533 of title 5 of the United States Code" in lieu of "301 of the Dual Compensation Act (5 U.S.C. 3105)".

(f) Funds made available under chapter 1 of part I[764] may be used for expenses (other than those provided for under section 637(a)) to assist in carrying out functions under chapter 1[765] of part I, under the Agricultural Trade Development and Assistance Act of 1954, as amended[766] (7 U.S.C. 1691 et seq.), and under the Latin American Development Act, as amended[767] (22 U.S.C. 1942 et seq.), performed by the agency primarily responsible for administering part I or by the Corporation established under title IV of chapter 2 of part I with respect to loan activities which it carries out under the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended.[768, 769]

(g) Funds made available for the purposes of part II shall be available for—

(1) administrative, extraordinary (not to exceed $300,000 in any fiscal year), and operating expenses incurred in furnishing defense articles, military education and training[770] and defense services on a grant or sales basis by the agency primarily responsible for administering part II;[771]

(2) reimbursement of actual expenses of military officers detailed or assigned as tour directors in connection with orientation visits of foreign military and related civilian personnel,[772] in accordance with the provisions of section 5702(c) of title 5 of the United States Code,[773] applicable to civilian officers and employees; and

(3) maintenance, repair, alteration, and furnishing of United States-owned facilities in the District of Columbia or elsewhere for the training of foreign military and related civilian personnel[772] without regard to the provisions of section 3733 of the Revised Statutes (41 U.S.C. 12) or other provision of law requiring a specific authorization or specific appropriation for such public contracts.

(h)[774] In carrying out programs under this Act, the President shall take all appropriate steps to assure that, to the maximum extent possible, (1) countries receiving assistance under this Act contribute local currencies to meet the cost of contractual and other services rendered in conjunction with such programs, and (2) foreign currencies owned by the United States are utilized to meet the costs of such contractual and other services.

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[764] The reference to chapter 1 of part I was substituted in lieu of a reference to sec. 212 by sec. 102(g)(2)(J) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 943).

[765] The reference to chapter 1 was substituted in lieu of a reference to title I of chapter 2 by sec. 102(g)(2)(J) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 943).

[766] For text, see page 939.

[767] Sec. 302(h)(2) of the FA Act of 1965 substituted the words "Latin American Development Act, as amended" for "Act to provide for assistance in the development of Latin America and in the reconstruction of Chile, and for other purposes". For text of the Latin American Development Act, see page 591.

[768] The words to this point, beginning with "or by the Corporation", were added by sec. 306 of the FA Act of 1969.

[769] For text, see page 939.

[770] The words ", military education and training" were added by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 733).

[771] The words to this point, beginning with "incurred in furnishing" (except as noted in footnote 637) were added by sec. 302(d) of the FA Act of 1968.

[772] The words "and related civilian personnel" were substituted in lieu of "personnel" by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 733).

[773] Sec. 302(n) of the FA Act of 1967 substituted "5702(c) of title 5 of the United States Code" in lieu of "3 of the Travel Expense Act of 1949, as amended (5 U.S.C. 836),".

[774] Subsec. (h) was added by sec. 302(f) of the FA Act of 1963.

(i)[775] Notwithstanding section 640 or any other provision of this Act, none of the funds made available to carry out this Act shall be used to finance the purchase, sale, long-term lease, exchange, or guaranty of a sale of motor vehicles unless such motor vehicles are manufactured in the United States. *Provided,* That where special circumstances exist the President is authorized to waive the provisions of this section in order to carry out the purposes of this Act.

Sec. 637.[776] **Administrative Expenses.**—(a)[777] * * * [Repealed—1978]

(b) There is hereby authorized to be appropriated[778] such amounts as may be necessary from time to time for administrative expenses which are incurred for functions of the Department of State under this Act and unrepealed provisions of the Mutual Security Act of 1954, as amended, or for normal functions of the Department of State which relate to such functions.[779]

Sec. 638.[780] **Exclusions.**[781]—(a) No provision of this Act shall be construed to prohibit assistance to any country pursuant to the Peace Corps Act, as amended; the Mutual Educational and Cultural Exchange Act of 1961, as amended; or the Export-Import Bank Act of 1945, as amended.[782]

(b)[783] No provision of this Act or any other provision of law shall be construed to prohibit assistance for any training activity which is funded under this Act for Brazil or Argentina as long as such country continues to have a democratically elected government and the assistance is otherwise consistent with sections 116, 502B, 620(f), 620A, and 660 of this Act.

Sec. 639.[784] **Famine or Disaster Relief.**—* * * [Repealed—1975]

Sec. 639A.[785] **Disaster Relief Assistance.**—* * * [Redesignated—1975]

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[775] Subsec. (i) was added by sec. 302(o) of the FA Act of 1967.

[776] 22 U.S.C. 2397.

[777] Subsec. (a) was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 961).

[778] The words "to the Secretary of State", which appeared at this point, were deleted by sec. 302(h)(2) of the FA Act of 1962.

[779] FA Appropriation Act, 1975: $4,800,000 as authorized by this section.

[780] 22 U.S.C. 2398. Sec. 638 was added by sec. 302(h) of the FA Act of 1963.

[781] The word "EXCLUSIONS" was substituted in lieu of "PEACE CORPS ASSISTANCE" by sec. 19 of the FA Act of 1973.

[782] 12 U.S.C. 635. The words ": or famine or disaster relief, including such relief through voluntary agencies, under title II of the Agricultural Trade Development and Assistance Act of 1954, as amended", which appeared at this point, were struck out by sec. 202(j) of the FA Act of 1965.

[783] Subsec. (b) was added by sec. 588 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329). Sec. 588 also provided that subsec. (b) not apply with respect to funds appropriated prior to the enactment of Public Law 100-202.

[784] Sec. 639, Famine or Disaster Relief, was repealed by sec. 101(6) of Public Law 94-161 (89 Stat. 849).

[785] Sec. 639A, as added by the FA Act of 1973, was redesignated as sec. 494A of this Act by sec. 101(5) of Public Law 94-161 (89 Stat. 849). It was subsequently repealed in 1978.

Sec. 639B.[786] **African Development Program.**—* * * [Redesignated—1975]

Sec. 640.[787] **Military Sales.**—* * * [Repealed—1968]

Sec. 640A.[788] **False Claims and Ineligible Commodities.**—(a) Any person who makes or causes to be made or presents or causes to be presented to any bank or other financial institution or to any officer, agent, or employee of any agency of the United States Government a claim for payment from funds made available under this Act for the purposes of furnishing assistance and who knows the claim to be false, fraudulent, or fictitious or to cover a commodity or commodity-related service determined by the President to be ineligible for payment from funds made available under this Act, or who uses to support his claim any certification, statement, or entry on any contract, bill of lading, Government or commercial invoice, or Government form, which he knows, or in the exercise of prudent business management should know, to contain false, fraudulent, or fictitious information, or who uses or engages in any other fraudulent trick, scheme, or device for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any benefit or payment from funds so made available under this Act in connection with the negotiation, procurement, award, or performance of a contract financed with funds so made available under this Act, and any person who enters into an agreement, combination or conspiracy to do so, (1) shall pay to the United States an amount equal to 25 per centum of any amount thereby sought to be wrongfully secured or obtained but not actually received, and (2) shall forfeit and refund any payment, compensation, loan, commission, or advance received as a result thereof, and (3) shall, in addition, pay to the United States for each such act (A) the sum of $2,000 and double the amount of any damage which the United States may have sustained by reason thereof, or (B) an amount equal to 50 per centum of any such payment, compensation, loan, commission, or advance so received, whichever is the greater, together with the costs of suit.

(b) In order to secure recovery under this section, the President may, as he deems appropriate, (1) institute suit in the United States district court for any judicial district in which the person alleged to have performed or participated in an act described by this section may reside or may be found, and (2) upon posting by registered mail to such person a notice of claim describing the basis therefor and identifying the funds to be withheld, withhold from funds owed by any agency of the United States Government to such person an amount equal to the refund, damages, liquidated damages, and exemplary damages claimed by the United States under this section. Any such withholding of funds from any person shall constitute a final determination of the rights and liabilities of such person under this section with respect to the amount so withheld, unless within one year of receiving the notice of claim such person brings suit for recovery, which is hereby authorized, against the United States in any United States district court.

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[786] Sec. 639B, as added by sec. 20 of the FA Act of 1973, was redesignated as sec. 494B by sec. 101(5) of Public Law 94-161 (89 Stat. 849). It has subsequently been redesignated as sec. 120 of this Act.

[787] Sec. 640 was repealed by sec. 45(a) of the Foreign Military Sales Act (Public Law 90-629).

[788] 22 U.S.C. 2399. Sec. 640A was added by sec. 302(f) of the FA Act of 1968.

(c) For purposes of this section, the term "person" includes any individual, corporation, partnership, association, or other legal entity.

Sec. 640B. Coordination.[789]—(a) The President shall establish a system for coordination of United States policies and programs which affect United States interests in the development of low-income countries. To that end, the President shall establish a Development Coordination Committee which shall advise him with respect to coordination of United States policies and programs affecting the development of the developing countries, including programs of bilateral and multilateral development assistance. The Committee shall include the head of the agency primarily responsible for administering part I, Chairman, and representatives of the Departments of State, Treasury, Commerce, Agriculture, Energy, and Labor, the Executive Office of the President and other executive departments and agencies, as the President shall designate.[790] The Committee shall advise the President concerning the degree to which bilateral and multilateral development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of people in the developing countries: food production; rural development and nutrition; population planning and health; and education, public administration, and human resource development.[791]

(b) The President shall prescribe appropriate procedures to assure coordination among—

(1) the various departments and agencies of the United States Government having representatives in diplomatic missions abroad; and

(2) representatives of the United States Government in each country, under the direction of the Chief of the United States Diplomatic Mission.

The President shall keep the Congress advised of his actions under this subsection.

(c) Programs authorized by this Act shall be undertaken with the foreign policy guidance of the Secretary of State.

(d)[792] * * * [Repealed—1978]

(e)[793] The head of any of the departments or agencies referred to in subsection (a) may temporarily assign, upon the request of the Chairman, any employee from such department or agency to the staff of the Committee.

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[789] 22 U.S.C. 2399. Sec. 640B was added by sec. 21 of the FA Act of 1973.

[790] Representatives from the Department of Energy were added to this list of Committee members by sec. 118 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 365). The function of the head of the agency primarily responsible for administering part I, as mentioned in this sentence, was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[791] This sentence was added by sec. 127(a) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 542).

[792] Subsec. (d), which had required an annual report from the President regarding U.S. actions affecting the development of less developed countries, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 959). A similar report is now required under sec. 634 of this Act.

[793] Subsecs. (e) and (f), were added by sec. 127(c) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 543).

(f)[793] To carry out the purposes of subsection (a), the Committee shall—

(1) prepare studies on various development problems;

(2) devise implementation strategies on developmental problems appropriate to each such department or agency;

(3) monitor and evaluate the results of the development activities of each such department or agency; and

(4) arrange for the exchange of information and studies between such agencies and departments.

(g)[794] * * * [Repealed—1981]

Sec. 640C.[795] **Shipping Differential.**—For the purposes of facilitating implementation of section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), funds made available for the purposes of chapter 1 of part I or for purposes of chapter 4 of part II[796] may be used to make grants to recipients to pay all or any portion of such differential as is determined by the Secretary of Commerce to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United States-owned foreign currencies wherever feasible.

Chapter 3—Miscellaneous Provisions

Sec. 641.[797] **Effective Date and Identification of Programs.**—This Act shall take effect on the date of its enactment. Programs under this Act shall be identified appropriately overseas as "American Aid".

Sec. 642. Statutes Repealed.—(a) There are hereby repealed—

(1) Reorganization Plan Numbered 7 of 1953;

(2) the Mutual Security Act of 1954, as amended (except sections[798] 402, 408, 417, 502(a), 502(b), 514, 523(d) and 536;[799, 800]

(3) section 12 of the Mutual Security Act of 1955;

(4) sections 12, 13, and 14 of the Mutual Security Act of 1956;

(5) section 503 of the Mutual Security Act of 1958;

(6) section 108 of the Mutual Security Appropriation Act, 1959;

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[794] Subsec. (g), as added by sec. 127(c) of Public Law 95–88 (91 Stat. 543) and amended by sec. 502(d)(2) of Public Law 95–424 (92 Stat. 959), was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1560). Formerly, subsec. (g) required an annual report to Congress on the Committee's operations. Such information is now required under sec. 634(a)(9) of this Act (page 224).

[795] 22 U.S.C. 2399d. Sec. 640C was added by sec. 21 of the FA Act of 1973.

[796] The reference to chapter 4 of part II was substituted in lieu of a reference to part V by sec. 708 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3159).

[797] 22 U.S.C. 2401.

[798] Sec. 303(a) of the FA Act of 1965 struck out sec. 143 of the Mutual Security Act of 1954 as amended, which was retained by the FA Act of 1961.

[799] For text of the Mutual Security Act of 1954, see page 595. Subsecs. (a), (c), and (d) of sec. 405 of the Mutual Security Act of 1954, as amended, and subsec. (c) of sec. 451, which were retained by the Foreign Assistance Act of 1961, were repealed by sec. 6 of the Migration and Refugee Assistance Act of 1962 (Public Law 87–510). Sec. 414 of the Mutual Security Act of 1954, as amended, was repealed by sec. 212(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329).

[800] The words ": *Provided*, That until the enactment of legislation authorizing and appropriating funds for activities heretofore carried on pursuant to sections 405(a), 405(c), 405(d), and 451(c) of the Mutual Security Act of 1954, as amended, such activities may be continued with funds made available under section 451(a) of this Act", which appeared at this point, were struck out by sec. 303(a) of the FA Act of 1965.

(7) section 501(a), chapter VI, and sections 702 and 703 of the Mutual Security Act of 1959, as amended; and

(8) section 604 and chapter VIII of the Mutual Security Act of 1960.

(b) References in law to the Acts, or provisions of such Acts, repealed by subsection (a) of this section shall hereafter be deemed to be references to this Act or appropriate provisions of this Act.

(c) The repeal of the Acts listed in subsection (a) of this section shall not be deemed to affect amendments contained in such Acts to Acts not named in that subsection.

Sec. 643.[801] Saving Provisions.—(a) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by section 642(a) and the Foreign Assistance Act of 1969 [802] shall continue in full force and effect until modified by appropriate authority.

(b) Wherever provisions of this Act establish conditions which must be complied with before use may be made of authority contained in, or funds authorized by, this Act, compliance with, or satisfaction of, substantially similar conditions under Acts listed in section 642(a) and the Foreign Assistance Act of 1969 or Acts repealed by those Acts shall be deemed to constitute compliance with the conditions established by this Act.

(c) Funds made available pursuant to provisions of law repealed by section 642(a)(2) and the Foreign Assistance Act of 1969 shall, unless otherwise authorized or provided by law, remain available for their original purposes in accordance with the provisions of law originally applicable thereto, or in accordance with the provisions of law currently applicable to those purposes.

(d) [803] * * * [Repealed—1962]

Sec. 644.[804] Definitions.—As used in this Act—

(a) "Agency of the United States Government" includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government.

(b) "Armed Forces" of the United States means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) "Commodity" includes any material, article, supply, goods, or equipment used for the purposes of furnishing nonmilitary assistance.

(d) "Defense article" includes—

(1) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war;

(2) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;

(3) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing,

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[801] 22 U.S.C. 2402.

[802] The words "and the Foreign Assistance Act of 1969" were added by sec. 308 of the FA Act of 1969.

[803] Subsec. (d) was repealed by sec. 303(a) of the FA Act of 1962.

[804] 22 U.S.C. 2403.

repair, servicing storage, construction, transportation, operation, or use of any article listed in this subsection; or

(4) any component or part of any article listed in this subsection; but

shall not include merchant vessels or, as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity),[805] byproduct material, special nuclear material, production facilities,[806] utilization facilities, or atomic weapons or articles involving Restricted Data.[806]

(e) "Defense information" includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service, but shall not include Restricted Data as defined by the Atomic Energy Act of 1954, as amended, and data removed from the Restricted Data category under section 142d of that Act.[807]

(f) [808] "Defense service" includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, but does not include military educational and training activities under chapter 5 of part II.

(g) [809] "Excess defense articles" means the quantity of defense articles owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act.

(h) "Function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(i) [810] * * * [Repealed—1973]

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[805] The parenthetical phrase was added by sec. 22 of the International Security Assistance Act of 1979 (Public Law 96–92, 93 Stat. 710).

[806] Sec. 303(a)(1) of the FA Act of 1967 added the words "production facilities, utilization facilities," and "or articles involving Restricted Data."

[807] Sec. 303(a)(2) of the FA Act of 1967 struck out the words "and formerly Restricted Data" which appeared after the words "Restricted Data," and added the words to this point beginning with ", and data removed."

[808] Subsec. (f) was amended by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329, 90 Stat. 733). It formerly read as follows:

"'Defense service' includes any service, test, inspection, repair, training, publication, or technical or other assistance, or defense information used for the purposes of furnishing military assistance. 'Training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces."

[809] Sec. 22(1) of the FA Act of 1973 amended subsec. (g), which formerly read as follows:

"(g) 'Excess defense articles' means the quantity of defense articles owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the mobilization reserve at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act."

[810] Subsec. (i), which related to mobilization reserve, was repealed by sec. 22(2) of the FA Act of 1973.

(j) "Officer or employee" means civilian personnel and members of the Armed Forces of the United States Government.

(k) "Services" include any service, repair, training of personnel, or technical or other assistance or information used for the purposes of furnishing nonmilitary assistance.

(l) "Surplus agricultural commodity" means any agricultural commodity or product thereof, class, kind, type, or other specification thereof, produced in the United States either publicly or privately owned, which is in excess of domestic requirements, adequate carryover, and anticipated exports for United States dollars, as determined by the Secretary of Agriculture.

(m)[811] "Value" means—

(1) with respect to an excess defense article, the actual value of the article plus the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying the article, except that for purposes of section 632(d) such actual value shall not be taken into account;

(2) with respect to a nonexcess defense article delivered from inventory to foreign countries or international organizations under this Act, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value;

(3) with respect to a nonexcess defense article delivered from new procurement to foreign countries or international organizations under this Act, the contract or production costs of such article;

(4) with respect to a defense service, the cost to the United States Government of such service; and

(5)[812] with respect to military education and training or services provided under chapter 8 of part II of this Act, the additional costs that are incurred by the United States Government in furnishing such assistance.

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[811] Sec. 22(3) of the FA Act of 1973 amended subsec. (m), which formerly read as follows:

"(m) 'Value' means, other than in section 657 of this Act—

"(1) with respect to excess defense articles, the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such articles;

"(2) with respect to nonexcess defense articles delivered from inventory to countries or international organizations under this Act, the standard price in effect at the time such articles are dropped from inventory by the supplying agency. Such standard price shall be the same price (including authorized reduced prices) used for transfers or sales of such articles in or between the Armed Forces of the United States Government, or, where such articles are not transferred or sold in or between the Armed Forces of the United States, the gross cost to the United States Government adjusted as appropriate for condition and market value; and

"(3) with respect to nonexcess defense articles delivered from new procurement to countries or international organizations under this Act, the contract or production costs of such articles.

"Military assistance programs and orders shall be based upon the best estimates of stock status and prevailing prices: reimbursements to the supplying agency shall be made on the basis of the stock status and prices determined pursuant to this section. Notwithstanding the foregoing provisions of this section, the Secretary of Defense may prescribe regulations authorizing reimbursements to the supplying agency based on negotiated prices for aircraft, vessels, plant equipment and such other major items as he may specify: *Provided,* That such articles are not excess at the time such prices are negotiated: *Provided further,* That such prices are negotiated at the time firm orders are placed with the supplying agency."

[812] Par. (5) was added by sec. 115(b)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3140). The reference to chapter 8 of part II was added by the International Security and Development Assistance Authorizations Act of 1983 (sec. 101(b)(2) of the Further Continuing Appropriations, 1984; Public Law 98-151, 97 Stat. 972). Pursuant to Public Law 98-151, this amendment was enacted as contained in title II of H.R. 2992, as reported by the House Committee on Foreign Affairs on May 17, 1983.

(n)[813] "Military education and training" includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.

(o)[814] "Agriculture" includes aquaculture and fisheries.

(p)[814] "Farmers" includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters.

Sec. 645.[815] **Unexpended Balances.**—Unexpended balances of funds made available pursuant to this Act, the Mutual Security Act of 1954, as amended, or the Latin American Development Act, as amended[816] are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this Act.

Sec. 646.[817] **Construction.**—If any provision of this Act, or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act, and of the applicability of such provision to other circumstances or persons shall not be affected thereby.

Sec. 647.[818] **Dependable Fuel Supply.**—It is of paramount importance that long-range economic plans take cognizance of the need for a dependable supply of fuels, which is necessary to orderly and stable development and growth, and that dependence not be placed upon sources which are inherently hostile to free countries and the ultimate well-being of economically underdeveloped countries and which might exploit such dependence for ultimate political domination. The agencies of government in the United States are directed to work with other countries in developing plans for basing development programs on the use of the large and stable supply of relatively low cost fuels available in the free world.

Sec. 648.[819] **Special Authorization for Use of Foreign Currencies.**—Subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953,[820] the President is authorized, as a demonstration of good will on the part of the people of the United States for the Polish and Italian people, to use foreign currencies accruing to the United States Government under this or any other

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[813] Subsec. (n) was added by sec. 106(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 733).

[814] Subsecs. (o) and (p) were added by sec. 103(b) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 945).

[815] 22 U.S.C. 2404. Sec. 304 of the FA Act of 1963 amended sec. 645, which formerly read as follows: "Unexpended balances of funds made available pursuant to this Act or the Mutual Security Act of 1954, as amended, are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this Act."

[816] Sec. 303(c) of the FA Act of 1965 substituted "the Latin American Development Act, as amended" for "Public Law 86-735".

[817] 22 U.S.C. 2405.

[818] 22 U.S.C. 2406.

[819] 22 U.S.C. 2407. Sec. 648 was added by sec. 303, of the FA Act of 1964.

[820] 31 U.S.C. 1306.

Act, for assistance on such terms and conditions as he may specify, in the repair, rehabilitation, improvement, and maintenance of cemeteries in Italy serving as the burial place of members of the armed forces of Poland who died in combat in Italy during World War II.

Sec. 649.[821] **Limitation on Aggregate Authorization for Use in Fiscal Year 1966.**—* * * [Repealed—1978]

Sec. 650.[822] **Use of United States Armed Forces.**—The furnishing of economic, military, or other assistance under this Act shall not be construed as creating a new commitment or as affecting any existing commitment to use Armed Forces of the United States for the defense of any foreign country.

Sec. 651.[823] **Sale of Supersonic Planes to Israel.**— * * * [Repealed—1978]

Sec. 652.[824] **Limitation Upon Exercise of Special Authorities.**—The President shall not exercise any special authority granted to him under section 506(a), 552(c)(2),[825] or 610(a)[826] of this Act unless the President, prior to the date he intends to exercise any such authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority.

Sec. 653.[827] **Change in Allocation of Foreign Assistance.**—(a) Not later than thirty days after the enactment of any law appro-

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[821] Sec. 649, which had been added by the FA Act of 1965, was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 961).

[822] 22 U.S.C. 2409. Sec. 650 was added by sec. 302(b) of the FA Act of 1967.

[823] Sec. 651, as added by the FA Act of 1968, was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 961).

[824] 22 U.S.C. 2411. Sec. 304(a)(1) of the FA Act of 1971 amended sec. 652, which had been added by sec. 8 of the Special Foreign Assistance Act of 1971. Sec. 652 formerly read as follows:

"Sec. 652. Limitation Upon Additional Assistance to Cambodia.—The President shall not exercise any special authority granted to him under sections 506(a) and 614(a) of this Act for the purpose of providing additional assistance to Cambodia, unless the President, at least thirty days prior to the date he intends to exercise any such authority on behalf of Cambodia (or ten days prior to such date if the President certifies in writing that an emergency exists requiring immediate assistance to Cambodia), notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority."

[825] The reference to sec. 552(c)(2) was added by sec. 105(b)(2) of Public Law 99-83, 99 Stat. 196.

[826] A reference to sec. 614(a), which previously appeared at this point, was struck out by sec. 117(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3141).

[827] 22 U.S.C. 2413. Sec. 653 was added by sec. 304(b) of the FA Act of 1971. Sec. 1209(b)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 279) redesignated former subsec. (c) as subsec. (b) and struck out the former subsec. (b) which read as follows:

"(b) Notwithstanding any other provision of law, no military grant assistance, assistance under chapter 4 of part II of this Act, assistance under chapter 1 of part I of this Act, or assistance under chapter 6 of part II of this Act, may be furnished to any country or international organization in any fiscal year, if such assistance exceeds by 10 percent or more the amount of such military grant assistance, under chapter 4 of part II of this Act, assistance under chapter 1 of part I of this Act, or assistance under chapter 6 of part II of this Act, as the case may be, set forth in the report required by subsection (a) of this section, unless—

> "(1) the President reports to the Congress, at least ten days prior to the date on which such excess funds are provided, the country or organization to be provided the excess funds, the amount and category of the excess funds, and the justification for providing the excess funds; and
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> "(2) in the case of military grant assistance or assistance under chapter 4 of part II of this Act or assistance under chapter 6 of part II, the President includes in the report under

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priating funds to carry out any provision of this Act (other than section 451 or 637) or the Arms Export Control Act,[828] the President shall notify the Congress of each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law and of the amount of funds under that law, by category of assistance, that the United States Government intends to provide to each.[829]

(b) [830] The provisions of this section shall not apply in the case of any law making continuing appropriations and may not be waived under the provisions of section 614(a) of this Act.

Sec. 654.[831] Presidential Findings and Determinations.—(a) In any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, that finding or determination shall be reduced to writing and signed by the President.

(b) No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

(c) Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

(d) No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though such report has not yet been trans-

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paragraph (1) his determination that it is in the security interest of the United States to provide the excess funds.

This subsection shall not apply if the excess funds provided in any fiscal year to any country or international organization for any category of assistance are less than $1,000,000."

[828] This reference to the Arms Export Control Act was added by sec. 1209(b)(1) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 279).

[829] Sec. 21(1) of the FA Act of 1974 struck the balance of subsection (a) at this point. The stricken part read as follows: "Notwithstanding any other provision of law the United States Government shall not provide to any foreign country or international organization any funds under that law which exceeds by 10 per centum the amount of military grant assistance or security supporting assistance, as the case may be, which the President notified the Congress that the United States Government intended to provide that country or organization under that law, unless the President (1) determines that it is in the security interests of the United States that such country or organization receive funds in excess of the amount included in such notification for that country or organization, and (2) reports to Congress at least ten days prior to the date on which such excess funds are to be provided to that country or organization, each such determination, including the name of the country or organization to receive funds in excess of such per centum, the amount of funds in excess of that per centum which are to be provided, and the justification for providing the additional assistance."

[830] Sec. 1209(b)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 279) redesignated this former subsec. (c) as subsec. (b).

[831] 22 U.S.C. 2414. Sec. 654 was added by sec. 304(b) of the FA Act of 1971.

mitted to the appropriate committee or officer of either House of Congress.

Sec. 655.[832] **Limitations Upon Assistance to or for Cambodia.**—* * * [Repealed—1978]

Sec. 656.[833] **Limitations on United States Personnel and Personnel Assisted by United States in Cambodia.**—* * * [Repealed—1978]

Sec. 657.[834] **Annual Report on Military Assistance and Military Exports.**—* * * [Repealed—1981]

Sec. 658.[835] **Limitations on Use of Funds.**—* * * [Repealed—1978]

Sec. 659.[836] **Access to Certain Military Bases Abroad.**—* * * [Repealed—1981]

Sec. 660.[837] **Prohibiting Police Training.**—(a) [838] On and after July 1, 1975, none of the funds made available to carry out this Act, and none of the local currencies generated under this Act, shall be used to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government or any program of internal intelligence or surveillance on behalf of any foreign government within the United States or abroad.

(b) Subsection (a) of this section shall not apply—

(1) with respect to assistance rendered under section 515(c) of the Omnibus Crime Control and Safe Streets Act of 1968 [839] with respect to any authority of the Drug Enforcement Administration or the Federal Bureau of Investigation which relates

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[832] Sec. 655, as added by the FA Act of 1971, was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 961).

[833] Sec. 656, as added by Public Law 92–226 (86 Stat. 20), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 961).

[834] Sec. 657, as originally added by the FA Act of 1971, was repealed by sec. 502(d)(1) of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 959). Subsequently, sec. 14 of the International Security Assistance Act of 1978 (Public Law 95–384, 92 Stat. 739) added a new sec. 657. Sec. 657 was again repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1560). Some of the information previously required annually under sec. 657 on military assistance and military exports is now required by sec. 634(a)(10) of this Act and sec. 25(a) of the Arms Export Control Act (pages 228 and 277, respectively).

[835] Sec. 658, as added by the FA Act of 1971, was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 961).

[836] Sec. 659, as added by sec. 20(a) of the FA Act of 1974, was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1560). It formerly read as follows:

"Sec. 659. Access to Certain Military Bases Abroad.—None of the funds authorized to be appropriated for foreign assistance (including foreign military sales, credit sales, and guaranties) under this Act may be used to provide any kind of assistance to any foreign country in which a military base is located if—

"(1) such base was constructed or is being maintained or operated with funds furnished by the United States;

"(2) personnel of the United States carry out military operations from such base; and

"(3) unless and until the President has determined that the government of such country has, consistent with security, authorized access, on a regular basis, to bona fide news media correspondents of the United States to such military base."

[837] 22 U.S.C. 2420. Sec. 660 was added by sec. 30(a) of the FA Act of 1974.

[838] Sec. 4205(b) of the Omnibus Anti-Substance Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4270) waived certain provisions of sec. 660(a) for fiscal years 1989 and 1990, with respect to assistance provided under chapter 2 of part II (relating to the grant military assistance program) "to countries described in subsection (c) for the procurement, for use in narcotics control, eradication, and interdiction efforts, of weapons or ammunition for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement." For full text, see page 705.

[839] Public Law 90–351, 82 Stat. 197, approved June 19, 1968. Such sec. 515(c) was redesignated as sec. 515(b) by sec. 124 of Public Law 94–503.

to crimes of the nature which are unlawful under the laws of the United States, or with respect to assistance authorized under section 482 of this Act;

(2) to any contract entered into prior to the date of enactment of this section with any person, organization, or agency of the United States Government to provide personnel to conduct, or assist in conducting, any such program; or

(3) [840] with respect to assistance, including training, in maritime law enforcement and other maritime skills.

Notwithstanding clause (2), subsection (a) shall apply to any renewal or extension of any contract referred to in such paragraph entered into on or after such date of enactment.

(c) [838, 841] Subsection (a) shall not apply with respect to a country which has a longstanding democratic tradition, does not have standing armed forces, and does not engage in a consistent pattern of gross violations of internationally recognized human rights.

(d) [841, 842] Notwithstanding the prohibition contained in subsection (a), assistance may be provided to Honduras or El Salvador for fiscal years 1986 and 1987 if, at least 30 days before providing assistance, the President notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act, that he has determined that the government of the recipient country has made significant progress, during the preceding six months, in eliminating any human rights violations including torture, incommunicado detention, detention of persons solely for the non-violent expression of their political views, or prolonged detention without trial. Any such notification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed.

Sec. 661.[843] **Trade and Development Program.**—(a) [844] The President is authorized to work with friendly countries, especially

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[840] Clause (3) was added by sec. 127(b) by Public Law 99-83, 99 Stat. 205.

[841] Subsecs. (c) and (d) were added by sec. 711 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 244).

[842] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268), under the heading "Economic Support Fund", provided:

"That notwithstanding section 660 of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this heading may be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress".

See also Presidential Determination No. 86-2 of October 29, 1985, 50 F.R. 48073, "Presidential Determination to Make Available Assistance to the Public Security Forces in El Salvador."

[843] 22 U.S.C. 2421. Sec. 661 was added by sec. 31 of the FA Act of 1974. The section title was changed from "Reimbursable Development Programs" to "Trade and Development Program" by sec. 312(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1536).

[844] The authorization levels for fiscal year 1986 and fiscal year 1987 were provided by sec. 405 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 219). Sec. 405 of the Act also deleted the following words from the end of subsec. (b): "Amounts appropriated under this subsection are authorized to remain available until expended".

Authorizations under this section in recent years include: Fiscal year 1977—$2,000,000; fiscal year 1978—$2,000,000; fiscal year 1979—$3,000,000; fiscal year 1980—$3,800,000; fiscal year 1981—$4,000,000; fiscal year 1982—$6,907,000; fiscal year 1983—$6,907,000; fiscal year 1984—$22,000,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

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those in which the United States development programs have been concluded or those not receiving assistance under part I of this Act, in (1) facilitating open and fair access to natural resources of interest to the United States and (2) stimulation of reimbursable aid programs consistent with part I of this Act. Funds under this section may be used to provide support for both bilateral and multilateral projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of Untied States exports in such projects.[845] Any funds used for purposes of this section may be used notwithstanding any other provision of this Act.

(b) [846] (1) The purposes of this section shall be carried out by the Trade and Development Program, which shall be a separate component agency of the International Development Cooperation Agency. The Trade and Development Program shall not be an agency within the Agency for International Development or any other component agency of the International Development Cooperation Agency.

(2) There shall be at the head of the Trade and Development Program a Director. Any individual appointed as the Director on or after January 1, 1989, shall be appointed by the President, by and with the advice and consent of the Senate.

(3) The Trade and Development Program should serve as the primary Federal agency to provide information to persons in the private sector concerning trade development and export promotion related to bilateral development projects. The Trade and Development Program shall cooperate with the Office of International Major Projects of the Department of Commerce in providing information to persons in the private sector concerning trade development and export promotion related to multilateral development projects. Other Federal departments and agencies shall cooperate with the Trade and Development Program in order for the Program to more effectively provide informational services in accordance with this paragraph.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268), waived the requirement for authorizations and appropriated the following for the "Trade and Development Program":

"For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $25,000,000: *Provided*, That except as provided in this or any other Act appropriating funds for foreign operations, export financing, and related programs, no provision of law enacted after May 19, 1988, may transfer funds to, or otherwise make available funds for, the Trade and Development Program: *Provided*, That notwithstanding any other provision of law, any funds contained in any previously enacted Act appropriating funds for foreign operations, export financing, and related programs which are transferred or otherwise made available to carry out the purposes of section 661 of the Foreign Assistance Act of 1961 may be deobligated and thereafter reobligated for the purposes for which such funds were originally appropriated: *Provided further*, That of the amounts appropriated under this heading up to $5,000,000 may be used for joint financing with individual State trade promotion organizations of activities directed at the expansion of trade with developing and middle income countries, including such activities as trade fairs, seminars, targeting and feasibility studies, and activities directed at enhancing the use of exports from the United States in bilateral and multilateral projects."

Sec. 312(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1536) designated the existing text of sec. 661 as subsec. (a), struck out the authorization level for fiscal year 1981 in the existing text, and added a new subsec. (b).

[845] This sentence was added by sec. 2204(b)(1) of Public Law 100-418, 102 Stat. 1329.

[846] Sec. 2204(b)(2) of Public Law 100-418 (102 Stat. 1329) redesignated subsec. (b) as (d), and inserted subsecs.(b) and (c).

(4) The Director of the Trade and Development Program shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Program in the preceding fiscal year.

(c) [846] The Director of the Trade and Development Program shall, by regulation, establish an advisory board which shall include representatives of the private sector. The purpose of the advisory board shall be to make recommendations to the Director with respect to the Trade and Development Program.

(d) [844, 846] There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $20,000,000 for the fiscal year 1986 and $20,000,000 for the fiscal year 1987.

Sec. 662.[847] Limitation on Intelligence Activities.—No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States. Each such operation shall be considered a significant anticipated intelligence activity for the purpose of section 501 of the National Security Act of 1947.[848]

Sec. 663.[849] Exchanges of Certain Materials.—(a) Notwithstanding any other provision of law, whenever the President determines it is in the United States national interest, he shall furnish assistance under this Act or shall furnish defense articles or services under the Foreign Military Sales Act pursuant to an agreement with the recipient of such assistance, articles, or services which provides that such recipient may only obtain such assistance, articles, or services in exchange for any necessary or strategic raw material controlled by such recipient. For the purposes of this section, the term "necessary or strategic raw material" includes petroleum, other fossil fuels, metals, minerals, or any other natural substance which the President determines is in short supply in the United States.

(b) The President shall allocate any necessary or strategic raw material transferred to the United States under this section to any appropriate agency of the United States Government for stockpiling, sale, transfer, disposal, or any other purpose authorized by law.

(c) Funds received from any disposal of materials under subsection (b) shall be deposited as miscellaneous receipts in the United States Treasury.

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[847] 22 U.S.C. 2422. Sec. 662 was added by sec. 32 of the FA Act of 1974.

[848] Sec. 407 of Public Law 96–450 (94 Stat. 1981) struck out a requirement for a "timely" report to be submitted to the Senate Foreign Relations/House Foreign Affairs Committees regarding the description and scope of operations referred to in this section. Sec. 407 also added this last sentence and struck out subsec. (b). Subsec. (b) formerly read as follows:

"(b) The provisions of subsection (a) of this section shall not apply during military operations initiated by the United States under a declaration of war approved by the Congress or an exercise of powers by the President under the War Powers Resolution."

[849] 22 U.S.C. 2423. Sec. 663 was added by sec. 32 of the FA Act of 1974.

Sec. 664.[850] **Waiver of Prohibition Against Assistance to Countries Engaging in Certain Trade.**—* * * [Repealed—1977]

Sec. 665.[851] **Transition Provisions for Interim Quarter.**—* * * [Repealed—1978]

Sec. 666.[852] **Discrimination Against United States Personnel.**—(a) The President shall not take into account, in assigning officers and employees of the United States to carry out any economic development assistance programs funded under this Act in any foreign country, the race, religion, national origin, or sex of any such officer or employee. Such assignments shall be made solely on the basis of ability and relevant experience.

(b) Effective six months after the date of enactment of the International Development and Food Assistance Act of 1975, or on such earlier date as the President may determine, none of the funds made available under this Act may be used to provide economic development assistance to any country which objects to the presence of any officer or employee of the United States who is present in such country for the purpose of carrying out any program of economic development assistance authorized by the provisions of this Act on the basis of the race, religion, national origin, or sex of such officer or employee.

(c) The Secretary of State shall promulgate such rules and regulations as he may deem necessary to carry out the provisions of this section.

Sec. 667.[853] **Operating Expenses.**—(a) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

(1) $387,000,000 for the fiscal year 1986 and $387,000,000 for the fiscal year 1987 [854] for necessary operating expenses of the

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[850] 22 U.S.C. 2424. Sec. 664, as added by sec. 33 of the FA Act of 1974, was repealed by sec. 123(c) of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 541). It formerly read as follows:

"Sec. 664. Waiver of Prohibition Against Assistance to Countries Engaging in Certain Trade.—Any provision of this Act which prohibits assistance to a country because that country is engaging in trade with a designated country, or because that country permits ships or aircraft under its registry to transport any equipment, materials, or commodities to or from such designated country, may be waived by the President if he determines that such waiver is in the national interest and reports such determination to the Congress."

[851] Sec. 665, as added by Public Law 94-161 (89 Stat. 849), was repealed by sec. 604 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 961).

[852] 22 U.S.C. 2426. Sec. 666 was added by sec. 318 of Public Law 94-161 (89 Stat. 849).

[853] 22 U.S.C. 2427. Sec. 667, as added by sec. 319 of Public Law 94-161 (89 Stat. 849), was amended and restated by sec. 129(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 543). It formerly read as follows:

"Sec. 667. Operating Expenses.—Nothing in this Act is intended to preclude the Committees on Appropriations, in appropriation legislation, from setting a ceiling on operating expenses of the agency primarily responsible for administering part I and limiting the availability of other sums therefor."

[854] The authorization figures for fiscal years 1986 and 1987 were added by sec. 406 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 219). Authorizations under this section during recent years include: fiscal year 1979—$261,000,000; fiscal year 1980—$263,000,000; fiscal year 1981—$293,800,000; fiscal year 1982—$335,600,000; fiscal year 1983—$335,600,000; fiscal year 1984—$370,000,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "Operating Expenses of the Agency for International Development":

"For necessary expenses to carry out the provisions of section 667, $414,000,000: *Provided*, That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further*, That except to the extent that the Administrator of the Agency for Inter-

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agency primarily responsible for administering part I of this Act [855], of which $21,750,000 for the fiscal year 1987 is authorized for the necessary operating expenses of the Office of the Inspector General of the Agency for International Development [856] and the remaining amount for the fiscal year is authorized for other necessary operating expenses of that agency and

(2) such amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such agency.

(b) Amounts appropriated under this section are authorized to remain available until expended.

Sec. 668.[857] **Report on Korea.**—* * * [Repealed—1981]

Sec. 669.[858] **Nuclear Enrichment Transfers.**—(a) Except as provided in subsection (b), no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 or part II), providing military [859] assistance or grant military education and training, providing assistance under chapter 6 of part II,[860] or extending military credits or making guaran-

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national Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1989 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, colleges and universities having a student body in which more than 40 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5)(B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economically and socially disadvantaged individuals shall be deemed to include women."

[855] The words following "Act" were added by sec. 402 of Public Law 99-529 (100 Stat. 3010).

[856] Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following for "Operating Expenses of the Agency for International Development Office of Inspector General":

"For necessary expenses to carry out the provisions of section 667, $28,500,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to three percent of the amount made available under the heading 'Operating Expenses of the Agency for International Development' may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further,* That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than 240 at September 30, 1989".

[857] Sec. 668, as added by sec. 411 of Public Law 94-329 (90 Stat. 760), was repealed by sec. 734(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). This report, which had been required on an annual basis, 1976-81, included information on progress made by Korea to modernize its armed forces, on the U.S. role in mutual security efforts in Korea, and on prospects for or implementation of phased reduction of U.S. Armed Forces assigned to duty in Korea. Similar information is now required under sec. 25(a)(9) of the Arms Export Control Act.

[858] 22 U.S.C. 2429. Sec. 669, as added by sec. 305 of Public Law 94-329, was amended and restated by sec. 12 of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 620).

See also sec. 620E of this Act (page 208) which authorizes the President to waive the prohibitions contained in sec. 669 in order to provide assistance to Pakistan.

[859] Sec. 10(b)(4) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 735), added the parenthetical phrase and struck the words "or security supporting" which previously appeared at this point.

[860] The reference to chapter 6 of part II was added by sec. 12(c)(3) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 737).

tees, to any country which, on or after the date of enactment of the International Security Assistance Act of 1977, delivers nuclear enrichment equipment, materials, or technology to any other country, or receives such equipment, materials, or technology from any other country, unless before such delivery—

(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

(b)(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.[861]

(2)[862] (A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within 30 calendar days after receiving this certification, the Congress adopts a concurrent resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the adoption of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

(B) Any concurrent resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) For the purpose of expediting the consideration and adoption of concurrent resolutions under this paragraph, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

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[861] Sec. 735 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1561) required an annual report from the President beginning with fiscal year 1983 on the nuclear programs and related activities of any country for which a waiver of secs. 669 or 670 is in effect. See page 420 for the complete text of sec. 735.

[862] Par. (2) was amended and restated by sec. 737(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1562). It formerly read as follows:

"(2) Any joint resolution which would terminate or restrict assistance described in subsection (a) with respect to a country to which the prohibition in such subsection applies shall, if introduced within thirty days after the transmittal of a certification under paragraph (1) of this subsection with respect to such country, be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976."

Sec. 670.[863] **Nuclear Reprocessing Transfers, Illegal Exports for Nuclear Explosive Devices, Transfers of Nuclear Explosive Devices, and Nuclear Detonations.**—(a)(1) Except as provided in paragraph (2) of this subsection, no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II, or extending military credits or making guarantees, to any country which (A) [864] on or after the date of enactment of the International Security Assistance Act of 1977 delivers nuclear reprocessing equipment, materials, or technology to any other country or receives such equipment, materials, or technology from any other country (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, or technologies which are alternatives to pure plutonium reprocessing), or (B) [864] is a non-nuclear-weapon state which, on or after the date of enactment of the International Security and Development Cooperation Act of 1985, exports illegally (or attempts to export illegally) from the United States any material, equipment, or technology which would contribute significantly to the ability of such country to manufacture a nuclear explosive device, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of a nuclear explosive device.[865] For purposes of clause (B), an export (or attempted export) by a person who is an agent of, or is otherwise acting on behalf of or in the interests of, a country shall be considered to be an export (or attempted export) by that country.

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[863] 22 U.S.C. 2429a. Sec. 670, as added by sec. 12 of Public Law 95–92, 91 Stat. 620), was amended and restated by sec. 737(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1562). It formerly read as follows:

"Sec. 670. Nuclear Reprocessing Transfers and Nuclear Detonations.—(a) Except as provided in subsection (b), no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II) providing military assistance or grant military education and training, providing assistance under chapter 6 of part II or extending military credits or making guarantees, to any country which on or after the date of enactment of the International Security Assistance Act of 1977—

"(1) delivers nuclear reprocessing equipment, materials, or technology to any other country or receives such equipment, materials, or technology from any other country (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternative to pure plutonium reprocessing); or

"(2) is not a nuclear-weapon state as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons and which detonates a nuclear explosive device.

"(b)(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representative and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(2) Any joint resolution which would terminate or restrict assistance described in subsection (a) with respect to a country to which the prohibition in such subsection applies shall, if introduced within thirty days after the transmittal of a certification under paragraph (1) of this subsection with respect to such country, be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976."

Sec. 737(a) of Public Law 97–113 also provided the following:

"Sec. 737. (a) The Congress finds that any transfer of a nuclear explosive device to a non-nuclear-weapon state or, in the case of a non-nuclear-weapon state, any receipt or detonation of a nuclear explosive device would cause grave damage to bilateral relations between the United States and that country."

The language in the caption of sec. 670: "Illegal Exports for Nuclear Explosive Devices", was added by sec. 1204(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 277).

[864] Subpar. (B) and the designation for subpar. (A) were added by sec. 1204(a) (1), (2), and (3) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 277).

(2) Notwithstanding paragraph (1) of this subsection, the President may furnish assistance which would otherwise be prohibited under that paragraph if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security.[865] The President shall transmit with such certification a statement setting forth the specific reasons therefor.[861]

(3)(A) A certification under paragraph (2) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within 30 calendar days after receiving this certification, the Congress adopts a concurrent resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the adoption of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

(B) Any concurrent resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) For the purpose of expediting the consideration and adoption of concurrent resolutions under this paragraph, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II, or extending military credits or making guarantees, to any country which on or after the date of enactment of the International Security Assistance Act of 1977—

(A) transfers a nuclear explosive device to a non-nuclear-weapon state, or

(B) is a non-nuclear-weapon state and either—

(i) receives a nuclear explosive device, or

(ii) detonates a nuclear explosive device.

(2)(A) Notwithstanding paragraph (1) of this subsection, the President may, for a period of not more than 30 days of continuous session, furnish assistance which would otherwise be prohibited under paragraph (1) of this subsection if, before furnishing such assistance, the President transmits to the Speaker of the House of Representatives, and to the Chairman of the Committee on Foreign Relations of the Senate, a certification that he has determined that an immediate termination of assistance to that country would be detrimental to the national security of the United States. Not more than one such certification may be transmitted for a country with respect to the same detonation, transfer, or receipt of a nuclear explosive device.

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[865] Presidential Determination No. 88-5 of January 15, 1988, 53 F.R. 3325, made such a determination with respect to assistance to Pakistan.

(B) If the President transmits a certification to the Congress under subparagraph (A), a joint resolution which would permit the President to exercise the waiver authority of paragraph (3) of this subsection shall, if introduced in either House within 30 days of continuous session after the Congress receives this certification, be considered in the Senate and House of Representatives in accordance with subparagraphs (C) and (D) of this paragraph.

(C) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(D) For the purpose of expediting the consideration and adoption of joint resolution under this paragraph, a motion to proceed to the consideration of such a joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(E) For purposes of this paragraph, the term "joint resolution" means a joint resolution the matter after the resolving clause of which is as follows: "That the Congress having received on ——— a certification by the President under section 670(b)(2) of the Foreign Assistance Act of 1961 with respect to , the Congress hereby authorizes the President to exercise the waiver authority contained in section 670(b)(3) of that Act.", with the date of receipt of the certification inserted in the first blank and the name of the country inserted in the second blank.

(3) Notwithstanding paragraph (1) of this subsection, if the Congress enacts a joint resolution under paragraph (2) of this subsection, the President may furnish assistance which would otherwise be prohibited under paragraph (1) if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

(4) For purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) As used in this section, the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.

Sec. 671.[866] **Notification of Program Changes.**—* * * [Redesignated—1978]

PART IV [867] * * * [Repealed—1962]

PART V [868] * * * [Repealed—1976]

PART VI [869] * * * [Repealed—1978]

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[866] Sec. 671, as added by (Public Law 95-88, 91 Stat. 543), was redesignated as sec. 634A of this Act by sec. 502(b) of the International Development and Food Assistance Act of 1978 (Public Law 95-424, 92 Stat. 959).

[867] Part IV, which related to amendments to other laws, was repealed by sec. 401 of the FA Act of 1962 and provided that the "repeal shall not be deemed to affect amendments contained in such part".

[868] Part V, which related to Indochina Postwar Reconstruction, was repealed by sec. 413 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 761). For complete text of regulations governing determinations, authorizations, etc., and remaining funds under part V, see page 474.

[869] Part VI, which related to assistance to the Middle East and had been added by the FA Act of 1974, was repealed by sec. 12(b)(4) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 737).

b. The Arms Export Control Act

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b. The Arms Export Control Act

Public Law 90-629 [H.R. 15681], 82 Stat. 1320, approved October 22, 1968, as amended by Public Law 91-672 [H.R. 15628], 84 Stat. 2053, approved January 12, 1971; Public Law 92-226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, 32, approved February 7, 1972; Public Law 93-189 [Foreign Assistance Act of 1973, S. 1443], 87 Stat. 714, 729, approved December 17, 1973; Public Law 93-559 [Foreign Assistance Act of 1974, S. 3394], 88 Stat. 1795, 1813, approved December 31, 1974; Public Law 94-329 [International Security Assistance and Arms Export Control Act of 1976, H.R. 13680], 90 Stat. 729, approved June 30, 1976; Public Law 95-92 [International Security Assistance Act of 1977, H.R. 6884], 91 Stat. 614, approved August 4, 1977; Public Law 95-105 [Foreign Relations Authorization Act, Fiscal Year 1978, H.R. 6689], 91 Stat. 844 at 846, approved August 17, 1977; Public Law 95-384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730, approved September 26, 1978; Public Law 96-70 [Panama Canal Act of 1979, H.R. 111], 93 Stat. 452 at 499, approved September 27, 1979; Public Law 96-72 [Export Administration Act of 1979, S. 737], 93 Stat. 503 at 535, approved September 29, 1979; Public Law 96-92 [International Security Assistance Act of 1979, H.R. 3173], 93 Stat. 701, approved October 29, 1979; Public Law 96-533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131, approved December 16, 1980; Public Law 97-113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519, approved December 29, 1981; Public Law 97-392 [H.R. 6758], 96 Stat. 1962, approved December 29, 1982; Public Law 98-151 [Further Continuing Appropriations, 1984, H.J. Res. 413], 97 Stat. 964, approved November 14, 1983; Public Law 98-473 [Continuing Appropriations Act, 1985, H.J. Res. 648], 98 Stat. 1837, approved October 12, 1984; Public Law 99-64 [Export Administration Amendments Act of 1985, S. 883], 99 Stat. 156, approved July 12, 1985; Public Law 99-83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190, approved August 8, 1985; Public Law 99-139 [Act to amend Sec. 51(b) of the Arms Export Control Act, S. 1726], 99 Stat. 562, approved October 30, 1985; Public Law 99-247 [Act to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law, S. 1831], 100 Stat. 9, approved February 12, 1986, Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 99-433 [Department of Defense Reorganization Act of 1986, H.R. 3622], 100 Stat. 992, approved October 1, 1986; Public Law 99-591 [Continuing Appropriations Act, 1987, H.J. Res. 738], 100 Stat. 3341, approved October 30, 1986; Public Law 99-661 [National Defense Authorization Act for Fiscal Year 1987, S. 2638], 100 Stat. 3816, approved November 14, 1986; Public Law 100-71 [Supplemental Appropriations Act, 1987, H.R. 1827], 101 Stat. 391, approved July 11, 1987; Public Law 100-202 [Continuing Appropriations Act, 1988, H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100-204 [Foreign Relations Authorization Act, 1988 and 1989, H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100-456 [National Defense Authorization Act, 1989, H.R. 4481], 102 Stat. 1918, approved September 29, 1988; and by Public Law 100-461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, H.R. 4637], 102 Stat. 2268, approved October 1, 1988.

AN ACT To consolidate and revise foreign assistance legislation relating to reimbursable military exports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arms Export Control Act".[1]

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[1] The new title, "Arms Export Control Act", was added in lieu of "The Foreign Military Sales Act" by sec. 201 of the International Security Assistance and Arms Export Control Act of 1976

Continued

Chapter 1—FOREIGN AND NATIONAL SECURITY POLICY OBJECTIVES AND RESTRAINTS

Section 1.[2] The Need for International Defense Cooperation and Military Export Controls.—As declared by the Congress in the Arms Control and Disarmament Act, an ultimate goal of the United States continues to be a world which is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing world are achieved peacefully. In furtherance of that goal, it remains the policy of the United States to encourage regional arms control and disarmament agreements and to discourage arms races.

The Congress recognizes, however, that the United States and other free and independent countries continue to have valid requirements for effective and mutually beneficial defense relationships in order to maintain and foster the environment of international peace and security essential to social, economic, and political progress. Because of the growing cost and complexity of defense equipment, it is increasingly difficult and uneconomic for any country, particularly a developing country, to fill all of its legitimate defense requirements from its own design and production base. The need for international defense cooperation among the United States and those friendly countries to which it is allied by mutual defense treaties is especially important, since the effectiveness of their armed forces to act in concert to deter or defeat aggression is directly related to the operational compatibility of their defense equipment.

Accordingly, it remains the policy of the United States to facilitate the common defense by entering into international arrangements with friendly countries which further the objective of applying agreed resources of each country to programs and projects of cooperative exchange of data, research, development, production, procurement, and logistics support to achieve specific national defense requirements and objectives of mutual concern. To this end, this Act authorizes sales by the United States Government to friendly countries having sufficient wealth to maintain and equip their own military forces at adequate strength, or to assume progressively larger shares of the costs thereof, without undue burden to their economies, in accordance with the restraints and control measures specified herein and in furtherance of the security objectives of the United States and of the purposes and principles of the United Nations Charter.

It is the sense of the Congress that all such sales be approved only when they are consistent with the foreign policy interests of the United States, the purposes of the foreign assistance program of the United States as embodied in the Foreign Assistance Act of 1961,[3] as amended, the extent and character of the military requirement, and the economic and financial capability of the recipient country, with particular regard being given, where appropriate,

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(Public Law 94-329, 90 Stat. 734). Sec. 201 further stated that "any reference to the Foreign Military Sales Act shall be deemed to be a reference to the Arms Export Control Act."

[2] 22 U.S.C. 2751.

[3] For text, see page 15.

to proper balance among such sales, grant military assistance, and economic assistance as well as to the impact of the sales on programs of social and economic development and on existing or incipient arms races.[4]

It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments. United States programs for or procedures governing the export, sale, and grant of defense articles and defense services to foreign countries and international organizations shall be administered in a manner which will carry out this policy.

It is the sense of the Congress that the President should seek to initiate multilateral discussions for the purpose of reaching agreements among the principal arms suppliers and arms purchasers and other countries with respect to the control of the international trade in armaments. It is further the sense of Congress that the President should work actively with all nations to check and control the international sale and distribution of conventional weapons of death and destruction and to encourage regional arms control arrangements. In furtherance of this policy, the President should undertake a concerted effort to convene an international conference of major arms-supplying and arms-purchasing nations which shall consider measures to limit conventional arms transfers in the interest of international peace and stability.

It is the sense of the Congress that the aggregate value of defense articles and defense services—

(1) which are sold under section 21 or section 22 of this Act; or

(2) which are licensed or approved for export under section 38 of this Act to, for the use, or for benefit of the armed forces, police, intelligence, or other internal security forces of a foreign country or international organization under a commercial sales contract;

in any fiscal year should not exceed current levels.[5]

It is the sense of the Congress that the President maintain adherence to a policy of restraint in conventional arms transfers and that, in implementing this policy worldwide, a balanced approach should be taken and full regard given to the security interests of the United States in all regions of the world and that particular attention should be paid to controlling the flow of conventional arms to the nations of the developing world. To this end, the President is encouraged to continue discussions with other arms suppliers in order to restrain the flow of conventional arms to less developed countries.[6]

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[4] A paragraph, as amended by sec. 4 of Public Law 91-672 and which had previously appeared at this point, was repealed by sec. 734(a)(10) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). It formerly read as follows:

"It is further the sense of Congress that sales and guaranties under sections 21, 22, 23, and 24, shall not be approved where they would have the effect of arming military dictators who are denying the growth of fundamental rights or social progress to their own people: *Provided*, That the President may waive this limitation when he determines it would be important to the security of the United States, and promptly so reports to the Speaker of the House of Representatives and the Committee on Foreign Relations in the Senate."

[5] Sec. 202(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 734) amended sec. 1 by striking out the last paragraph and adding the language beginning with "It shall be the policy of the United States". The last paragraph of sec. 1 formerly read as follows: "In order to reduce the role of the United States Government in the furnishing of defense articles and defense services to foreign countries and international organizations, and return such transactions to commercial channels, the United States Government shall reduce its sales, credit sales, and guaranties of such articles, and defense services as soon as, and to the maximum extent, practicable."

Sec. 2.[7] **Coordination With Foreign Policy.**—(a) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(b)[8] Under the direction of the President, the Secretary of State (taking into account other United States activities abroad, such as military assistance, economic assistance, and food for peace program) shall be responsible for the continuous supervision and general direction of sales, leases, financing, cooperative projects, and exports under this Act, including, but not limited to, determining—

(1) whether there will be a sale to or financing for a country and the amount thereof;

(2) whether there will be a lease to a country;

(3) whether there will be a cooperative project and the scope thereof; and

(4) whether there will be delivery or other performance under the sale, lease, cooperative project, or export,

to the end that sales, financing, leases, cooperative projects, and exports will be integrated with other United States activities and to the end that the foreign policy of the United States would be best served thereby.

(c) The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission. The Chief of the diplomatic mission shall make sure that recommendations of such representatives pertaining to sales are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires.

Sec. 3.[9] **Eligibility.**—(a) No defense article or defense service shall be sold or leased[10] by the United States Government under this Act to any country or international organization,[11] and no agreement shall be entered into for a cooperative project (as defined in section 27 of this Act), unless—

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[6] This paragraph was added by sec. 15(a) of the International Security Assistance Act of 1978 (92 Stat. 739). Sec. 15(b) of the same Act required a report from the President to the Congress by December 31, 1979, concerning the implications of the multilateral discussions referred to in the paragraph.

[7] 22 U.S.C. 2752.

[8] Subsec. (b) was amended and restated by sec. 115(b) of Public Law 99-83, 99 Stat. 201. It previously read as follows:

"(b) Under the direction of the President, the Secretary of State, taking into account other United States activities abroad, such as military assistance, economic assistance, and food for freedom, shall be responsible for the continuous supervision and general direction of sales, leases, and exports under this Act, including, but not limited to, determining whether there shall be a sale to a country and the amount thereof, whether there shall be a lease to a country, and whether there shall be delivery or other performance under such sale, lease, or export, to the end that sales, leases, and exports are integrated with other United States activities and the foreign policy of the United States is best served thereby."

[9] 22 U.S.C. 2753.

[10] The words "or leased" were added by sec. 109(b)(2)(A) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1526).

[11] The words "and no agreement * * * of this Act)", were added by sec. 115(b)(2)(A) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 201).

(1) the President finds that the furnishing of defense articles and defense services to such country or international organization will strengthen the security of the United States and promote world peace;

(2) the country or international organization shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service [12] so furnished to it, or produced in a cooperative project (as defined in section 27 of this Act),[13] to anyone not an officer, employee, or agent of that country or international organization (or the North Atlantic Treaty Organization or the specific member countries other than the United States) in the case of a cooperative project) [14] and not to use or permit the use of such article or related training or other defense service [12] for purposes other than those for which furnished [15] unless the consent of the President has first been obtained;

(3) [16] the country or international organization shall have agreed that it will maintain the security of such article or service [17] and will provide substantially the same degree of security protection afforded to such article or service [17] by the United States Government; and

(4) [16] the country or international organization is otherwise eligible to purchase or lease [17] defense articles or defense services.

In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under paragraph (2) to the transfer unless the United States itself would transfer the defense article under consideration to that country.[18] In addition, the President shall not give his consent under paragraph (2) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.[19] The President shall promptly submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate on the implementation of each agreement entered into pursuant to clause (2) of this subsection.

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[12] Sec. 203(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 735) added the words "or related training or other defense service".

[13] Sec. 115(b)(2)(B)(i) of Public Law 99-83, 99 Stat. 201, added the words "or produced * * * of this Act".

[14] Sec. 115(b)(2)(B)(ii) of Public Law 99-83, 99 Stat. 201, added the words "(or the North Atlantic * * * cooperative project".

[15] Sec. 25(2) of the FA Act of 1973 struck out "and" at the end of par. (2) and added the words to this point beginning with "and not to use or permit".

[16] Sec. 25(2)(B) of the FA Act of 1973 added par. (3) and redesignated former par. (3) as par. (4).

[17] The words "or service" were added by sec. 115(b)(2)(c) of Public Law 99-83, 99 Stat. 201. The words "or lease" were added by sec. 109(b)(2)(B) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1526). Subsequently, they were restated by sec. 1102(3)(C) of Public Law 99-145, 99 Stat. 710.

[18] Sec. 204(b)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 736) amended sec. 3 by striking out the following language after "country": ", and prior to the date he intends to give his consent to the transfer, the President notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended consent, the justification for giving such consent, the defense article for which he intends to give his consent to be so transferred, and the foreign country to which that defense article is to be transferred".

(b)[20] * * * [Repealed—1977]

(c)(1)(A)[21] No credits (including participations in credits) may be issued and no guaranties may be extended for any foreign country under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (i) by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4 for a purpose not authorized under such agreement; (ii) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (iii) by failing to maintain the security of such articles or services.

(B) No cash sales or deliveries pursuant to previous sales may be made with respect to any foreign country under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantity or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4, for a purpose not authorized under such agreement.

(2) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3)(A) A country shall be deemed to be ineligible under subparagraph (A) of paragraph (1) of this subsection, or both subparagraphs (A) and (B) of such paragraph in the case of a violation described in both such paragraphs, if the President so determines and so reports in writing to the Congress, or if the Congress so determines by joint resolution.

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[19] The words to this point, beginning with "In considering a request for approval" were added by sec. 25(2)(C) of the FA Act of 1973.

[20] Subsec. (b), as amended by sec. 1 of Public Law 91-71, was repealed by sec. 15 of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 622). It had concerned U.S. military assistance to a country which had seized an American fishing vessel outside a 12-mile limit.

[21] Sec. 304(b)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 754) amended subsec. (c), which formerly read as follows:

"(c) Except as otherwise provided in subsection (d), any foreign country which hereafter uses defense articles or defense services furnished such country under this Act, in substantial violation of any provision of this Act or any agreement entered into under this Act, shall be immediately ineligible for further cash sales, credits, or guarantees."

(B) Notwithstanding a determination by the President of ineligibility under subparagraph (B) of paragraph (1) of this subsection, cash sales and deliveries pursuant to previous sales may be made if the President certifies in writing to the Congress that a termination thereof would have significant adverse impact on United States security, unless the Congress adopts or has adopted a joint resolution pursuant to subparagraph (A) of this paragraph with respect to such ineligibility.

(4) A country shall remain ineligible in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

(d) [22] (1) [23] The President may not give his consent under paragraph (2) of subsection (a) or under the third sentence of such subsection, or under section 505(a)(1) or 505(a)(4) of the Foreign Assistance Act of 1961, to a transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or any defense article or related training or other defense service valued (in terms of its original acquisition cost) at $50,000,000 or more,[24] unless [25] the President submits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

(A) [23] the name of the country or international organization proposing to make such transfer,

(B) [23, 26] a description of the article or service proposed to be transferred, including its acquisition cost,

(C) [23] the name of the proposed recipient of such article or service,[27]

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[22] Sec. 204(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 735) added subsecs. (e) and (f). Sec. 304(b)(2) of the same Act repealed subsec. (d) and redesignated subsecs. (e) and (f) as (d) and (e). Previously, subsec. (d) read as follows:

"(d) A country shall remain ineligible in accordance with subsection (c) of this section until such time as the President determines that such violation has ceased, that the country concerned has given assurances satisfactory to the President that such violation will not recur, and that, if such violation involved the transfer of sophisticated weapons without the consent of the President, such weapons have been returned to the country concerned."

[23] Sec. 16 of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 622) added the designation "(1)", redesignated pars. (1) through (5) as (A) through (E), and added a new par. (2).

[24] The words to this point beginning with "or under section 505(a)(1) * * *" were substituted in lieu of similar text by sec. 101(a)(1)(A) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1519). Previously, the President was required to submit a certification to Congress on all transfers of these items regardless of their value.

[25] The words ", 30 days prior to giving such consent.", which previously appeared at this point were struck out by sec. 16(1) of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 622).

[26] Subparagraph (B) was amended and restated by sec. 101(a)(1)(B) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1519). It formerly read as follows:

"(B) a description of the defense article or related training or other defense service proposed to be transferred, including the original acquisition cost of such defense article or related training or other defense service".

[27] The words "defense" and "related training or other defense", which formerly appeared before the words "article" and "service", respectively, were deleted by sec. 101(a)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1519).

(D) [23] the reasons for such proposed transfer, and

(E) [23] the date on which such transfer is proposed to be made.

Any certification submitted to Congress pursuant to this paragraph shall be unclassified, except that information regarding the dollar value and number of articles or services [27] proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

(2) [23] (A) Except as provided in subparagraph (B),[28] unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until 30 calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact,[29] within such 30-day period, a joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act [30] prohibiting the proposed transfer.

(B) [28] In the case of a proposed transfer to the North Atlantic Treaty Organization, or any member country of such Organization, Japan, Australia, or New Zealand, unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until fifteen calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact,[29] within such fifteen-day period, a law prohibiting the proposed transfer.

(3) [31] The President may not give his consent to the transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or of any defense article or defense service valued (in terms of its original acquisition cost) at $50,000,000 or more, the export of which has been licensed or approved under section 38 of this Act,[32] unless at least 30 calendar days before giving such consent the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report containing the information specified in subparagraphs (A) through (E) of paragraph (1). Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as

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[28] Sec. 102(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1520) inserted the subpar. (A) designation, added the words to this point in subpar. (A), and added a new subpar. (B).

[29] Public Law 99-247, 100 Stat. 9, replaced the language "adopt * * * concurrent resolution disapproving" with the current text.

[30] Sec. 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268-45) added text to this point beginning with "joint resolution", in lieu of "law".

[31] Sec. 101(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3131) redesignated existing par. (3) as par. (4) and added this new par. (3).

Paragraph (4) was originally added as par. (3) by sec. 17 of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 622).

[32] The value of the items listed in this sentence was increased from $7,000,000 and $25,000,000 to $14,000,000 and $50,000,000, respectively, by sec. 101(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1519).

provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer.[33]

(4) [31] This subsection shall not apply—

(A) to transfers of maintenance, repair, or overhaul defense services, or of the repair parts or other defense articles used in furnishing such services, if the transfer will not result in any increase, relative to the original specifications, in the military capability of the defense articles and services to be maintained, repaired, or overhauled;

(B) to temporary transfers of defense articles for the sole purpose of receiving maintenance, repair, or overhaul; or

(C) [34] to arrangements among members of the North Atlantic Treaty Organization or between the North Atlantic Treaty Organization and any of its member countries—

(i) for cooperative cross servicing, or

(ii) for lead-nation procurement if the certification transmitted to the Congress pursuant to section 36(b) of this Act with regard to such lead-nation procurement identified the transferees on whose behalf the lead-nation procurement was proposed.

(D) [35] * * * [Repealed—1981]

(e) [22] If the President receives any information that a transfer of any defense article, or related training or other defense service, has been made without his consent as required under this section or under section 505 of the Foreign Assistance Act of 1961, he shall report such information immediately to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f) [36] (1) Unless the President finds that the national security requires otherwise, he shall terminate all sales,[37] under this Act to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. The President may not thereafter make or extend sales,[37] to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for sales,[37] pursuant to this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

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[33] The last sentence was added by sec. 577 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268–45).

[34] Subparagraph (C) was amended and restated by sec. 11 of the International Security Assistance Act of 1979 (Public Law 96–92, 93 Stat. 705). It formerly read as follows:

"(C) to cooperative cross servicing arrangements among members of the North Atlantic Treaty Organization."

[35] Subparagraph (D), as added by sec. 101(b) of Public Law 96–536 (94 Stat. 3131), was repealed by sec. 101(a)(3)(C) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1520). Subpar. (D) had stipulated that subsec. (d) would not apply to transfers to NATO, member countries of NATO, Japan, Australia, or New Zealand of major defense equipment valued at less than $7,000,000 or defense articles or related training or other defense service valued at less than $25,000,000.

[36] Subsec. (f) was added by sec. 18 of the International Security Assistance Act of 1977 (Public Law 95–92, 91 Stat. 622).

[37] Sec. 503(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 221), removed the wording "credits, and guarantees" and "credits, or guarantees" from the places indicated by the footnote designation.

(2) If the President finds that the national security justifies a continuation of sales [37] to any government described in paragraph (1), he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

Sec. 4. [38] **Purposes for Which Military Sales by the United States Are Authorized.**—Defense articles and defense services shall be sold or leased [39] by the United States Government under this Act to friendly countries solely for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort: *Provided,* That none of the funds contained in this authorization shall be used to guarantee, or extend credit, or participate in an extension of credit in connection with any sale of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to any underdeveloped country other than Greece, Turkey, Iran, Israel, the Republic of China, the Philippines, and Korea unless the President determines that such financing is important to the national security of the United States and reports within thirty days each such determination to the Congress.

Sec. 5.[40] **Prohibition Against Discrimination.**—(a) It is the policy of the United States that no sales should be made, and no credits (including participations in credits) or guaranties extended to or for any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this Act on the basis of race, religion, national origin, or sex.

(b)(1) No agency performing functions under this Act shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

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[38] 22 U.S.C. 2754.

[39] The words "or leased" were added by sec. 109(b)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1526).

[40] 22 U.S.C. 2755. Sec. 5 was added by sec. 302(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 752).

(2) Each contract entered into by any such agency for the performance of any function under this Act shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(c) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any instance in which any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the performance of any sale or licensed transaction under this Act. Such reports shall include (1) a description of the facts and circumstances of any such discrimination, (2) the response thereto on the part of the United States or any agency or employee thereof, and (3) the result of such response, if any.

(d)(1) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the President shall, within 60 days after the receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State [41] for Human Rights and Humanitarian Affairs, with respect to the country designated in such request, setting forth—

(A) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin or sex and prevent any such person from participating in the performance of any sale or licensed transaction under this Act;

(B) the response of the United States thereto and the results of such response;

(C) whether, in the opinion of the President, notwithstanding any such policies or practices—

(i) extraordinary circumstances exist which necessitate a continuation of such sale or licensed transaction, and, if so, a description of such circumstances and the extent to which such sale or licensed transaction should be continued (subject to such conditions as Congress may impose under this section), and

(ii) on all the facts it is in the national interest of the United States to continue such sale or licensed transaction; and

(D) such other information as such committee may request.

(2) In the event a statement with respect to a sale or licensed transaction is requested pursuant to paragraph (1) of this subsec-

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[41] Sec. 109(a)(6) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105, 91 Stat. 846) substituted the words "Assistant Secretary of State" in lieu of "Coordinator."

tion but is not transmitted in accordance therewith within 60 days after receipt of such request, such sale or licensed transaction shall be suspended unless and until such statement is transmitted.

(3)(A) In the event a statement with respect to a sale or licensed transaction is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such sale or licensed transaction.

(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

Sec. 6.[42] Foreign Intimidation and Harassment of Individuals in the United States.—No letters of offer may be issued, no credits or guarantees may be extended, and no export licenses may be issued under this Act with respect to any country determined by the President to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States. The President shall report any such determination promptly to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate.

Chapter 2—FOREIGN MILITARY SALES AUTHORIZATIONS

Sec. 21.[43] Sales From Stocks.—(a)(1) [44] The President may sell defense articles and defense services from the stocks of the Department of Defense to any eligible country or international organization if such country or international organization agrees to pay in United States dollars—

(A) [44] in the case of a defense article not intended to be replaced at the time such agreement is entered into, not less than the actual value thereof;[45]

(B) [44] in the case of a defense article intended to be replaced at the time such agreement is entered into, the estimated cost of replacement of such article, including the contract or production costs less any depreciation in the value of such article; or

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[42] 22 U.S.C. 2756. Sec. 6. was added by sec. 115 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1528).

[43] 22 U.S.C. 2761. Sec. 205 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 736) amended sec. 21 which formerly read as follows:

"Sec. 21. Cash Sales From Stock.—The President may sell defense articles from the stocks of the Department of Defense and defense services of the Department of Defense to any friendly country or international organization if such country or international organization agrees to pay not less than the value thereof in United States dollars. Payment shall be made in advance or, as determined by the President to be in the best interests of the United States, within a reasonable period not to exceed one hundred and twenty days after the delivery of the defense articles or the rendering of the defense services."

Sec. 975 of title 10, U.S. Code, as added by sec. 815 of the Department of Defense Appropriation Authorization Act, 1979 (92 Stat. 1625), prohibited the sale of certain defense articles from Department of Defense stocks. For complete text of 10 U.S.C. 975, see page 784.

[44] Sec. 107(a)(1) and (2) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 196) redesignated pars. (1), (2) and (3) as subpars. (A), (B) and (C) and inserted a "(1)" after subsec. (a).

[45] Sec. 8021 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463, 102 Stat. 2270) stipulated that no funds provided under that Act shall be "available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided*, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code."

(C) [44, 46] in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service, except that in the case of training sold to a purchaser who is concurrently receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961, only those additional costs that are incurred by the United States Government in furnishing such assistance.

(2) [47] For purposes of subparagraph (A) of paragraph (1), the actual value of a naval vessel of 3,000 tons or less and 20 years or more of age shall be considered to be not less than the greater of the scrap value or fair value (including conversion costs) of such vessel, as determined by the Secretary of Defense.

(b) Except as provided by subsection (d) of this section, payment shall be made in advance or, if the President determines it to be in the national interest, upon delivery of the defense article or rendering of the defense service.

(c)(1) [48] Personnel performing defense services sold under this Act may not perform any duties of a combatant nature, including any duties related to training and advising that may engage United States personnel in combat activities,[49] outside the United States in connection with the performance of those defense services.

(2) [48] Within forty-eight hours of the existence of, or a change in status of significant hostilities or terrorist acts or a series of such acts, which may endanger American lives or property, involving a country in which United States personnel are performing defense services pursuant to this Act or the Foreign Assistance Act of 1961, the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, classified if necessary, setting forth—

(A) the identity of such country;

(B) a description of such hostilities or terrorist acts; and

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[46] Subparaagraph (C) was amended and restated by sec. 108(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 197). It previously read: "in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service, except that in the case of training, only those additional costs that are incurred by the United States Government in furnishing such training."

[47] Paragraph (2) was added by sec. 107(a)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 196).

[48] The paragraph designation "(1)" and a new par. (2) were added by sec. 102 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3132). Par. (2) was subsequently amended and restated by sec. 103 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1521). The original text of par. (2) read as follows:

"(2) Within 48 hours after the outbreak of significant hostilities involving a country in which United States personnel are performing defense services pursuant to this Act or the Foreign Assistance Act of 1961, the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

"(A) the identity of such country and a description of such hostilities; and

"(B) the number of members of the United States Armed Forces and the number of United States civilian personnel performing defense services related to such hostilities in such country, their location, the precise nature of their activities, and the likelihood of their becoming engaged in or endangered by hostilities."

[49] The words "training and advising that may engage United States personnel in combat activities" were substituted in lieu of "training, advising, or otherwise providing assistance regarding combat activities" by sec. 102(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3132).

(C) the number of members of the United States Armed Forces and the number of United States civilian personnel that may be endangered by such hostilities or terrorist acts.

(d) If the President determines it to be in the national interest pursuant to subsection (b) of this section, billings for sales made under letters of offer issued under this section after the enactment of this subsection may be dated and issued upon delivery of the defense article or rendering of the defense service and shall be due and payable upon receipt thereof by the purchasing country or international organization. Interest shall be charged on any net amount due and payable which is not paid within sixty days after the date of such billing. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the billing and shall be computed from the date of billing. The President may extend such sixty-day period to one hundred and twenty days if he determines that emergency requirements of the purchaser for acquisition of such defense articles or defense services exceed the ready availability to the purchaser of funds sufficient to pay the United States in full for them within such sixty-day period and submits that determination to the Congress together with a special emergency request for the authorization and appropriation of additional funds to finance such purchases under this Act.

(e)(1) After September 30, 1976, letters of offer for the sale of defense articles or for the sale of defense services that are issued pursuant to this section or pursuant to section 22 of this Act shall include appropriate charges for—

(A) [50] administrative services, calculated on an average percentage basis to recover the full estimated costs (excluding a pro rata share of fixed base operations costs) [51] of administration of sales made under this Act to all purchasers of such articles and services;

(B) any use of plant and production equipment in connection with such defense articles;

(C) a proportionate amount of any nonrecurring costs of research, development, and production of major defense equipment; and

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[50] Sec. 586(b)(1), (2), and (c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) provided the following:

"(b) The Secretary of Defense shall waive collection of the following amounts of surcharges otherwise due on the letter of offer and acceptance (without amendment) for the sale to Israel of aircraft known as Peace Marble III and on the letter of offer and acceptance (without amendment) for the sale to Egypt of aircraft known as Peace Vector III:

"(1) $20,000,000 of administrative surcharges under section 21(e)(1)(A) of the Arms Export Control Act for the letter of offer and acceptance with Israel and $11,700,000 of administrative surcharges under that section for the letter of offer and acceptance with Egypt: *Provided*, That the Secretary shall reimburse the fund established to carry out section 43(b) of the Arms Export Control Act in the amount of the surcharges waived pursuant to this paragraph from any funds available to the Department of Defense, as he determines; and

"(2) $70,000,000 of nonrecurring cost recoupment surcharges under section 21(e)(1)(C) of the Arms Export Control Act for the letter of offer and acceptance with Israel and $38,000,000 of nonrecurring cost recoupment surcharges under that section for the letter of offer and acceptance with Egypt.

"(c) This section shall be effective on October 1, 1989."

[51] The wording in parentheses was added by sec. 109 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 197).

(D)[52] the recovery of ordinary inventory losses associated with the sale from stock of defense articles that are being stored at the expense of the purchaser of such articles.

(2) The President may reduce or waive the charge or charges which would otherwise be considered appropriate under paragraphs (1)(B) and (1)(C) for particular sales that would, if made, significantly advance United States Government interests in North Atlantic Treaty Organization standardization, standardization with the Armed Forces of Japan, Australia, or New Zealand in furtherance of the mutual defense treaties between the United States and those countries, or foreign procurement in the United States under coproduction arrangements.[53]

(3)[54] (A) The President may waive the charges for administrative services that would otherwise be required by paragraph (1)(A) in connection with any sale to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of—

(i) a weapon system partnership agreement; or

(ii) a NATO/SHAPE project.

(B) The Secretary of Defense may reimburse the fund established to carry out section 43(b) of this Act in the amount of the charges waived under subparagraph (A) of this paragraph. Any such reimbursement may be made from any funds available to the Department of Defense.

(C) As used in this paragraph—

(i) the term "weapon system partnership agreement" means an agreement between two or more member countries of the Maintenance and Supply Agency of the North Atlantic Treaty Organization that—

(I) is entered into pursuant to the terms of the charter of that organization; and

(II) is for the common logistic support of a specific weapon system common to the participating countries; and

(ii) the term "NATO/SHAPE project" means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.

(f) Any contracts entered into between the United States and a foreign country under the authority of this section or section 22 of this Act shall be prepared in a manner which will permit them to be made available for public inspection to the fullest extent possible consistent with the national security of the United States.

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[52] Subparagraph (D) was added by sec. 16 of the International Security Assistance Act of 1978 (Public Law 95-384; 92 Stat. 740).

[53] The words "standardization with the * * * and those countries," were added by sec. 104 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1521).

Sec. 8033 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270) provided the following:

"None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver."

[54] Sec. 1002 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456, 102 Stat. 2037) added sec. 21(e)(3).

(g) [55] The President may enter into North Atlantic Treaty Organization standardization agreements in carrying out section 814 of the Act of October 7, 1975 (Public Law 94-106), and may enter into similar agreements with Japan, Australia, and New Zealand, and with other countries which are major non-NATO allies,[56] for the cooperative furnishing of training on a bilateral or multilateral basis, if the financial principles of such agreements are based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate. As used in this subsection, the term 'major non-NATO allies' means those countries designated as major non-NATO allies for purposes of section 1105 of the National Defense Authorization Act of Fiscal Year 1987.[57]

(h)(1) [58] The President is authorized to provide (without charge) quality assurance, inspection, contract administration services,[59] and contract audit defense services under this section—

(A) [58] in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services [60] entered into after the date of enactment of this subsection by, or under this Act on behalf of, a foreign government which is a member of the North Atlantic Treaty Organization, if such government provides such services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government; or

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[55] Subsec. (g) was added by sec. 108(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 99 Stat. 197).

Subsec. (g) was previously repealed by the Foreign Assistance Appropriations Act, 1985 (sec. 101 of the Continuing Appropriations Act, 1985; Public Law 98-473; 98 Stat. 1895). This amendment had been included as sec. 102(b) of S. 2346, as introduced on February 27, 1984. Public Law 98-473 enacted sec. 102 of S. 2346. Subsec. (g) previously read as follows:

"(g) The President may enter into North Atlantic Treaty Organization standardization agreements in carrying out section 814 of the Act of October 7, 1975 (Public Law 94-106), and may enter into similar agreements with Japan, Australia, and New Zealand, for the cooperative furnishing of training on a bilateral or multilateral basis, if the financial principles of such agreements are based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate."

[56] The words "and with other countries which are major non-NATO allies" were added by sec. 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-181).

[57] The last sentence was added by sec. 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-181). The text for sec. 1105 of the National Defense Authorization Act, 1987, may be found on page 860.

[58] Sec. 12 of the International Security Assistance Act of 1979 (Public Law 96-92; 93 Stat. 705) redesignated subsec. (h) as subsec. (i) and added this new subsec. (h).

Subsequently, sec. 111 (1), (2), and (3) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 197), inserted the designation (1) after subsec. (h), added par. (2) and redesignated what was previously pars. (1) and (2) as subpars. (A) and (B) of the newly designated (h)(1).

[59] The language "contract administration services" was added by sec. 110 of Public Law 99-83; 99 Stat. 197.

[60] The reference to design and construction services was added by sec. 115(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533; 94 Stat. 3134).

(B)[58] in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services[60] pursuant to the North Atlantic Treaty Organization Infrastructure Program in accordance with an agreement under which the foreign governments participating in such program provide such services, without charge, in connection with similar contracts or subcontracts.

(2)[58] In carrying out the objectives of this section, the President is authorized to provide cataloging data and cataloging services, without charge, to the North Atlantic Treaty Organization or to any member government of that Organization if that Organization or member government provides such data and services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government.

(i)[61] (1) Sales of defense articles and defense services which could have significant adverse effect on the combat readiness of the Armed Forces of the United States shall be kept to an absolute minimum. The President shall transmit to the Speaker of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate on the same day a written statement giving a complete explanation with respect to any proposal to sell, under this section or under authority of chapter 2B,[62] any defense articles or defense services if such sale could have a significant adverse effect on the combat readiness of the Armed Forces of the United States.[63] Each such statement shall be unclassified except to the extent that public disclosure of any item of information contained therein would be clearly detrimental to the security of the United States. Any necessarily classified information shall be confined to a supplemental report. Each such statement shall include an explanation relating to only one such proposal to sell and shall set forth—

(A) the country or international organization to which the sale is proposed to be made;

(B) the amount of the proposed sale;

(C) a description of the defense article or service proposed to be sold;

(D) a full description of the impact which the proposed sale will have on the Armed Forces of the United States; and

(E) a justification for such proposed sale, including a certification that such sale is important to the security of the United States.

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[61] Subsec. (i), as originally added as subsec. (h) by sec. 206 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 738), was redesignated as subsec. (i) by sec. 12 of Public Law 96-92.

[62] The reference to the authority under chapter 2B was added by sec. 3 of Public Law 97-392 (96 Stat. 1962).

[63] An additional reporting requirement regarding the impact of sales or transfers of defense articles from the United States active forces inventories is contained in 10 U.S.C. 133b.

A certification described in subparagraph (E) shall take effect on the date on which such certification is transmitted and shall remain in effect for not to exceed one year.

(2) No delivery may be made under any sale which is required to be reported under paragraph (1) of this subsection unless the certification required to be transmitted by paragraph (E) of paragraph (1) is in effect.

Sec. 22.[64] **Procurement for Cash Sales.**—(a) Except as otherwise provided in this section, the President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any foreign country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due. Interest shall be charged on any net amount by which any such country or international organization is in arrears under all of its outstanding unliquidated dependable undertakings, considered collectively. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the net arrearage and shall be computed from the date of net arrearage.[65]

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[64] 22 U.S.C. 2762. Sec. 25(3) of the FA Act of 1973 amended sec. 22, which formerly read as follows:

"Sec. 22. Procurement for Cash Sales.—The President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any friendly country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract, and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due: *Provided*, That the President may, when he determines it to be in the national interest accept a dependable undertaking to make full payment within one hundred and twenty days after delivery of the defense articles, or the rendering of the defense services, and appropriations available to the Department of Defense may be used to meet the payments required by the contracts and shall be reimbursed by the amounts subsequently received from the country or international organization: *Provided further*, That the President may, when he determines it to be in the national interest, enter into sales agreements with purchasing countries or international organizations which fix prices to be paid by the purchasing countries or international organizations for the defense articles or defense services ordered. Funds made available under section 31 for financing sales shall be used to reimburse the applicable appropriations in the amounts required by the contracts which exceed the price so fixed, except that such reimbursement shall not be required upon determination by the President that the continued production of the defense article being sold is advantageous to the Armed Forces of the United States. Payments by purchasing countries or international organizations which exceed the amounts required by such contracts shall be transferred to the general fund of the Treasury. To the maximum extent possible, prices fixed under any such sales agreement shall be sufficient to reimburse the United States for the cost of defense articles or defense services ordered. The President shall submit to the Congress promptly a detailed report concerning any fixed- price sales agreement under which the aggregate cost to the United States exceeds the aggregate amount required to be paid by the purchasing country or international organization. No sales of unclassified defense articles shall be made to the government of any economically developed nation under the provisions of this section unless such articles are not generally available for purchase by such nations from commercial sources in the United States: *Provided, however*, That the President may waive the provisions of this sentence when he determines that the waiver of such provisions is in the national interest."

(b) The President may, if he determines it to be in the national interest, issue letters of offer under this section which provide for billing upon delivery of the defense article or rendering of the defense service and for payment within one hundred and twenty days after the date of billing. This authority may be exercised, however, only if the President also determines that the emergency requirements of the purchaser for acquisition of such defense articles and services exceed the ready availability to the purchaser of funds sufficient to make payments on a dependable undertaking basis and submits both determinations to the Congress together with a special emergency request for authorization and appropriation of additional funds to finance such purchases under this Act.[66] Appropriations available to the Department of Defense may be used to meet the payments required by the contracts for the procurement of defense articles and defense services and shall be reimbursed by the amounts subsequently received from the country or international organization to whom articles or services are sold.

(c) [67] The provisions of the Renegotiation Act of 1951 do not apply to procurement contracts, heretofore or hereafter entered into under this section, section 29, or predecessor provisions of law.

Sec. 23.[68, 69] **Credit Sales.**—(a) The President is authorized to finance the procurement of defense articles, defense services, and

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[65] The words beginning with "Interest shall be charged on any net amount * * *" were added by sec. 207(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 738).

[66] Sec. 207(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 738) amended subsec. (b) by striking out the first sentence and adding in lieu thereof the words to this point. The first sentence of subsec. (b) formerly read as follows: "(b) The President may, when he determines it to be in the national interest, accept a dependable undertaking of a foreign country or international organization with respect to any such sale, to make full payment within 120 days after delivery of the defense articles or the rendering of the defense services."

Sec. 1007(b)(5) of the DOD Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2579) waived the requirement under sec. 22 for payment in advance of delivery with respect to the purchase by the Federal Republic of Germany of one Patriot missile fire unit. For complete text of sec. 1007(b)(5), see page 899.

[67] Subsec. (c), as added by sec. 17 of the International Security Assistance Act of 1978 (Public Law 95-384; 92 Stat. 740), was amended and restated by sec. 105(b)(2) of the International Security and Development Cooperation Act of 1980 (Public Law 96-553; 94 Stat. 3134). It formerly read as follows:

"(c) The provisions of the Renegotiation Act of 1951 do not apply to contracts for the procurement of defense articles and defense services heretofore or hereafter entered into under this section or predecessor provisions of law."

[68] 22 U.S.C. 2763. Sec. 23 was amended and restated by sec. 102 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 99 Stat. 195). It previously read as follows:

"The President is authorized to finance procurements of defense articles, defense services, and design and construction services by friendly foreign countries and international organizations on terms requiring the payment to the United States Government in United States dollars of—

"(1) the value of such articles or services within a period not to exceed twelve years after the delivery of such articles or the rendering of such services; and

"(2) interest on the unpaid balance of that obligation for payment of the value of such articles or services, at a rate equivalent to the current average interest rate, as of the last day of the month preceding the financing of such procurement that the United States Government pays on outstanding marketable obligations of comparable maturity, unless the President certifies to Congress that the national interest requires a lesser rate of interest and states in the certification the lesser rate so required and the justification therefor."

Prior to that, sec. 45(a)(2) of the FA Act of 1974 amended sec. 23, which formerly read as follows: "Sec. 23. Credit Sales.—The President is hereby authorized to finance procurements of defense articles and defense services by friendly countries and international organizations on

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design and construction services by friendly foreign countries and international organizations, on such terms and conditions as he may determine consistent with the requirements of this section. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of this section may be used to provide financing to Israel and Egypt for the procurement by leasing (including

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terms of repayment to the United States Government of not less than the value thereof in the United States dollars within a period of not to exceed ten years after the delivery of the defense articles or the rendering of the defense services."

[69] Sec. 101(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 99 Stat. 193) provided an authorization for each of the fiscal years 1986 and 1987 of $5,371,000,000 to carry out sec. 23 and set a ceiling of $553,900,000 for each fiscal year of the amount that may be made available at concessional interest rates.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461; 102 Stat. 2268) waived the requirement for authorizations and appropriated the following:

"FOREIGN MILITARY FINANCING PROGRAM

"For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,862,750,000: *Provided*, That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, not less than $1,300,000,000 shall be available for grants only for Egypt, not less than $230,000,000 shall be available for grants only for Pakistan, not less than $52,000,000 shall be available for grants only for Morocco, and not less than $30,000,000 shall be available for grants only for Tunisia: *Provided further*, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further*, That grants shall be provided with the funds appropriated by this paragraph notwithstanding any requirement in section 23 of the Arms Export Control Act for repayment and shall be implemented by grant documents which do not include a requirement to repay the United States Government with respect to any funds provided under this paragraph.

"For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $410,000,000: *Provided*, That any funds made available by this paragraph except as otherwise specified, may be made available at concessional rates of interest: *Provided further*, That the concessional rate of interest on foreign military credit sales loans shall be not less than 5 percent per year: *Provided further*, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further*, That during fiscal year 1989, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $410,000,000.

"Of the funds appropriated under both the 'Military Assistance' heading and this heading $500,000,000 only shall be available for Turkey and $350,000,000 only shall be available for Greece: *Provided*, That funds previously obligated for the Philippines under the heading 'Foreign Military Credit Sales' but uncommitted on the date of enactment of this Act shall be used only to finance sales made under the Arms Export Control Act: *Provided further*, That of the funds appropriated under this heading, not less than $409,750,000 shall be available only for use in financing the procurement of defense articles, defense services, or design and construction services that are sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further*, That any reference in title V of this Act to 'Foreign Military Credit Sales' shall be deemed to be a reference to grants and loans pursuant to the Foreign Military Finance Program under this heading.

"FOREIGN MILITARY SALES DEBT REFORM

"Funds made available by the Foreign Operations, Export Financing and Related Programs, Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading 'Foreign Military Sales Debt Reform', subsection (b) 'Interest Rate Reduction' shall be available, subject to the same conditions and provisos, only after October 1, 1989."

For text of provisions on Foreign Military Sales Debt Reform in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100-202, sec. 101(e)), see page 580.

leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under this Act.[70]

(b) The President shall require repayment in United States dollars within a period not to exceed twelve years [71] after the loan agreement with the country or international organization is signed on behalf of the United States Government, unless a longer period is specifically authorized by statute for that country or international organization.

(c)(1) The President shall charge interest under this section at such rate as he may determine, except that such rate may not be less than 5 percent per year.

(2) For purposes of financing provided under this section—

(A) the term "concessional rate of interest" means any rate of interest which is less than market rates of interest; and

(B) the term "market rate of interest" means any rate of interest which is equal to or greater than the current average interest rate (as of the last day of the month preceding the financing of the procurement under this section) that the United States Government pays on outstanding marketable obligations of comparable maturity.

(d) References in any law to credits extended under this section shall be deemed to include reference to participations in credits.

Sec. 24.[72] Guaranties.—(a) The President may guarantee any individual, corporation, partnership, or other juridical entity doing business in the United States (excluding United States Government agencies other than the Federal Financing Bank) [73] against political and credit risks of nonpayment arising out of their financing of credit sales of defense articles, defense services, and design and construction services [60] to friendly countries and international organizations. Fees shall be charged for such guaranties.

(b) The President may sell to any individual, corporation, partnership, or other juridical entity (excluding United States Government agencies other than the Federal Financing Bank) [73] promissory notes issued by friendly countries and international organizations as evidence of their obligations to make repayments to the United States on account of credit sales financed under section 23, and may guarantee payment thereof.

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[70] The last sentence of subsec. (a) was added by sec. 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Continuing Appropriations for 1988, Public Law 100-202). See also sec. 580, Public Law 100-461, page 584.

[71] Sec. 208(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329; 90 Stat. 739) originally substituted "twelve years" in lieu of "ten years". Sec. 208(b) of the same Act went on to say, "The amendment made by subsection (a) shall apply with respect to financing under agreements entered into on or after the date of enactment of this Act for the procurement of defense articles to be delivered, or defense services to be rendered, after such date".

[72] 22 U.S.C. 2764.

[73] Sec. 45(a)(3) of the FA Act of 1974 substituted words "(excluding United States Government agencies other than the Federal Financing Bank)" in lieu of "(excluding United States Government agencies)".

(c)[74] Funds obligated under this section before the date of enactment of the International Security and Development Cooperation Act of 1980 which constitute a single reserve for the payment of claims under guaranties issued under this section shall remain available for expenditure for the purposes of this section on and after that date. That single reserve may, on and after the date of enactment of the International Security and Development Cooperation Act of 1985, be referred to as the "Guaranty Reserve Fund."

Funds provided for necessary expenses to carry out the provisions of section 23 of the Arms Export Control Act and of section 503 of the Foreign Assistance Act of 1961, as amended, may be used to pay claims on the Guaranty Reserve Fund to the extent that funds in the Guaranty Reserve Fund are inadequate for that purpose.[75]

For purposes of any provision in this Act or any other Act relating to a prohibition or limitation on the availability of funds under this Act, whenever a guaranty is issued under this section, the principal amount of the loan so guaranteed shall be deemed to be funds made available for use under this Act. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.

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[74] Subsec. (c), as amended by the FA Act of 1973 and the FA Act of 1974, was further amended and restated by sec. 104(a) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533; 94 Stat. 3132). It formerly read as follows:

"(c) Funds made available to carry out this Act shall be obligated in an amount equal to 10 per centum of the principal amount of contractual liability related to any guaranty issued under this section, and all the funds so obligated shall constitute a single reserve for the payment of claims under such guaranties. Any funds so obligated which are deobligated from time to time during any current fiscal year as being in excess of the amount necessary to maintain a fractional reserve of 10 per centum in the principal amount of contractual liability under outstanding guaranties shall be transferred to the general fund of the Treasury. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States."

[75] Sec. 106 (b) and (c) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 99 Stat. 196) amended subsec. (c) by deleting the following text:

"The President shall report promptly to the Congress whenever the payment of a claim under any such guaranty reduces the total amount of funds in the single reserve under this subsection to an amount less than $750,000,000, together with his recommendations for the authorization of appropriations of additional funds for such reserve."

It also added the text beginning with "That single reserve" in the first paragraph of subsec. (c) and continuing with a second paragraph as follows:

"Funds authorized to be appropriated by section 31(a) to carry out this Act which are allocated for credits at market rates of interest may be used to pay claims under such guarantees to the extent funds in the Guaranty Reserve Fund are inadequate for that purpose."

Public Law 100-71, 101 Stat. 409 (Supplemental Appropriations Act, 1987) deleted the second paragraph and replaced it with the present language.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) provided the following:

"GUARANTY RESERVE FUND

"If during fiscal year 1989 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading 'Foreign Military Sales Debt Reform', the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States."

Sec. 25. [76] **Annual Estimate and Justification for Sales Program.**—(a) Except as provided in subsection (d) of this section,[77] no later than February 1 of each year, the President shall transmit to the Congress, as a part of the annual presentation materials for security assistance programs proposed for the next fiscal year, a report which sets forth—

(1) an Arms Sales Proposal covering all sales and licensed commercial exports under this Act of major weapons or weapons-related defense equipment for $7,000,000 or more, or of any other weapons or weapons-related defense equipment for $25,000,000 or more, which are considered eligible for approval during the current calendar year, together with an indication of which sales and licensed commercial exports are deemed most likely actually to result in the issuance of a letter of offer or of an export license during such year;

(2) an estimate of the total amount of sales and licensed commercial exports expected to be made to each foreign nation from the United States;

(3) the United States national security considerations involved in expected sales or licensed commercial exports to each country, an analysis of the relationship between anticipated sales to each country and arms control efforts concerning such country and an analysis of the impact of such anticipated sales on the stability of the region that includes such country;

(4) an estimate with regard to the international volume of arms traffic to and from nations purchasing arms as set forth in paragraphs (1) and (2) of this subsection, together with best estimates of the sale and delivery of weapons and weapons-related defense equipment by all major arms suppliers to all major recipient countries during the preceding fiscal year;

(5)(A) [78] an estimate of the aggregate dollar value and quantity of defense articles and defense services, military education and training, grant military assistance, and credits and guarantees, to be furnished by the United States to each foreign country and international organization in the next fiscal year; and

(B) [78] for each country that is proposed to be furnished credits or guaranties under this Act in the next fiscal year and that has been approved for cash flow financing (as defined in subsection (d)[79] of this section) in excess of $100,000,000 as of October 1 of the current fiscal year—

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[76] 22 U.S.C. 2765. Sec. 25, as added by sec. 209(a) of Public Law 94-329 (90 Stat. 739) and amended by sec. 18 of Public Law 95-384 (92 Stat. 740), secs. 13 and 14 of Public Law 96-92 (93 Stat. 706), and by secs. 104 and 107 of Public Law 96-533 (94 Stat. 3183), was amended and restated by sec. 732 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1557). The previous text of sec. 25 required information similar to that specified in new paragraphs (1) through (4), (7), and (8). Much of the remaining information now required by sec. 25, was formerly required by other statutes as follows: par. (6)—sec. 43(c) of the Arms Export Control Act; par. (9)—sec. 668 of the Foreign Assistance Act of 1961; par. (10)—sec. 714 of the International Security and Development Cooperation Act of 1980; and par. (11)—sec. 634(a)(4) of the Foreign Assistance Act of 1961.

[77] Subsec. (d) and the reference to it at the beginning of subsec. (a) were added by secs. 113 (1) and (2) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 198).

[78] Subparagraph (B) and the designation for subpara. (A) were added by sec. 112(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 198).

(i) the amount of such approved cash flow financing,

(ii) a description of administrative ceilings and controls applied, and

(iii) a description of the financial resources otherwise available to such country to pay such approved cash flow financing;

(6) an analysis and description of the services performed during the preceding fiscal year by officers and employees of the United States Government carrying out functions on a full-time basis under this Act for which reimbursement is provided under section 43(b) or section 21(a) of this Act, including the number of personnel involved in performing such services;

(7) the total amount of funds in the reserve under section 24(c) at the end of the fiscal year immediately preceding the fiscal year in which a report under this section is made, together with an assessment of the adequacy of such total amount of funds as a reserve for the payment of claims under guaranties issued pursuant to section 24 in view of the current debt servicing capacity of borrowing countries, as reported to the Congress pursuant to section 634(a)(5) of the Foreign Assistance Act of 1961;

(8) a list of all countries with respect to which findings made by the President pursuant to section 3(a)(1) of this Act are in effect on the date of such transmission;

(9) the progress made under the program of the Republic of Korea to modernize its armed forces, the role of the United States in mutual security efforts in the Republic of Korea and the military balance between the People's Republic of Korea and the Republic of Korea;

(10) the amount and nature of Soviet military assistance to the armed forces of Cuba during the preceding fiscal year and the military capabilities of those armed forces;

(11) the status of each loan and each contract of guaranty or insurance theretofore made under the Foreign Assistance Act of 1961, predecessor Acts, or any Act authorizing international security assistance, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each extension of credit for the procurement of defense articles or defense services, and of each contract of guaranty in connection with any such procurement, theretofore made under the Arms Export Control Act with respect to which there remains outstanding any unpaid obligation or potential liability; and

(12) such other information as the President may deem necessary.

(b) Not later than thirty days following the receipt of a request made by the Committee on Foreign Relations of the Senate or the

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[79] Subsec. (d), which probably should read subsec. (e), was added to the end of sec. 25 by sec. 112(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 198). It should probably end with a period instead of a semicolon.

Committee on Foreign Affairs of the House of Representatives for additional information with respect to any information submitted pursuant to subsection (a), the President shall submit such information to such committee.

(c) The President shall make every effort to submit all of the information required by subsection (a) or (b) wholly in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.

(d) [77] The information required by subsection (a)(4) of this section shall be transmitted to the Congress no later than April 1 of each year.

(d) [79] For the purposes of subsection (a)(5)(B) of this section, the term "cash flow financing" means the dollar amount of the difference between the total estimated price of a Letter of Offer and Acceptance or other purchase agreement that has been approved for financing under this Act or under section 503(a)(3) of the Foreign Assistance Act of 1961 and the amount of the financing that has been approved therefor;

Sec. 26.[80] Security Assistance [81] Surveys.—(a) The Congress finds that surveys prepared by the United States for foreign countries have had a significant impact on subsequent military procurement decisions of those countries. It is the policy of the United States that the results of security assistance [81] surveys conducted by the United States clearly do not represent a commitment by the United States to provide any military equipment to any foreign country. Further, recommendations in such surveys should be consistent with the arms export control policy provided for in this Act.

(b) As part of the quarterly report required by section 36(a) of this Act, the President shall include a list of all security assistance surveys authorized during the preceding calendar quarter, specifying the country with respect to which the survey was or will be conducted, the purpose of the survey, and the number of United States Government personnel who participated or will participate in the survey.

(c) Upon a request of the chairman of the Committee on International Relations of the House of Representatives or the chairman of the Committee on Foreign Relations of the Senate, the President shall submit to that committee copies of [82] security assistance [81] surveys conducted by United States Government personnel.

(d) [83] As used in this section, the term "security assistance surveys" means any survey or study conducted in a foreign country by United States Government personnel for the purpose of assessing the needs of that country for security assistance, and includes defense requirement surveys, site surveys, general surveys or studies, and engineering assessment surveys.

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[80] 22 U.S.C. 2765. Sec. 26 was added by sec. 19 of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 740).

[81] The term "security assistance" was substituted in lieu of "defense requirement" by secs. 114 (a)(1) and (2) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 198).

[82] Sec. 114(b) of Public Law 99-83, 99 Stat. 199, inserted the words "submit to that committee copies of", in lieu of "grant that committee access to".

[83] Sec. 114(a)(3) of Public Law 99-83, 99 Stat. 198, added subsec. (d).

Sec. 27. [84] **Authority of President to Enter into Cooperative Projects with Friendly Foreign Countries.**—(a) The President may enter into a cooperative project agreement with the North Atlantic Treaty Organization or with one or more member countries of that Organization.

(b) As used in this section—

(1) the term "cooperative project" [85] in the case of an agreement with the North Atlantic Treaty Organization or with one or more member countries of that Organization, means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to further the objectives of standardization, rationalization, and interoperability of the armed forces of North Atlantic Treaty Organization member countries forces and which provides—

(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(B) for concurrent production in the United States and in another member country of a defense article jointly developed in accordance with subparagraph (A); or

(C) for procurement by the United States of a defense article or defense service from another member country or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization;[86]

(2) [87] the term "cooperative project", in the case of an agreement entered into under subsection (j), means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to enhance the ongoing multinational effort of the participants to improve the conventional defense capabilities of the participants and which provides—

"(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(B) for concurrent production in the United States and in the country of another participant of a defense article jointly developed in accordance with subparagraph (A); or

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[84] 22 U.S.C. 2767. Sec. 27 was added by sec. 15 of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 706). It was amended and restated by sec. 115 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 199), at which time it was titled "North Atlantic Treaty Organization Cooperative Projects." Its current heading was added by sec. 1103(a)(2) of Public Law 99-661, 100 Stat. 3816.

[85] The words beginning at this point with "in the case of" and ending with "Organization" were added by sec. 1103(a)(1)(A)(i) of Public Law 99-661, 100 Stat. 3816.

[86] The words to this point beginning with "or for procurement" were added by sec. 1022 of Public Law 100-180, 101 Stat. 1144.

[87] Sec. 1103(a)(1)(A)(iv) of Public Law 99-661, 100 Stat. 3816, added par. (2) and redesignated the previous par. (2) as par. (3).

(C) for procurement by the United States of a defense article or defense service from another participant to the agreement; and

(3)[87] the term "other participant" means a participant in a cooperative project other than the United States.

(c) Each agreement for a cooperative project shall provide that the United States and each of the other participants will contribute to the cooperative project its equitable share of the full cost of such cooperative project and will receive an equitable share of the results of such cooperative project. The full costs of such cooperative project shall include overhead and administrative costs. The United States and the other participants may contribute their equitable shares of the full cost of such cooperative project in funds or in defense articles or defense services needed for such cooperative project. Military assistance and financing received from the United States Government may not be used by any other participant to provide its share of the cost of such cooperative project. Such agreements shall provide that no requirement shall be imposed by a participant for worksharing or other industrial or commercial compensation in connection with such agreement that is not in accordance with such agreement.

(d) The President may enter into contracts or incur other obligations for a cooperative project on behalf of the other participants, without charge to any appropriation or contract authorization, if each of the other participants in the cooperative project agrees (1) to pay its equitable share of the contract or other obligation, and (2) to make such funds available in such amounts and at such times as may be required by the contract or other obligation and to pay any damages and costs that may accrue from the performance of or cancellation of the contract or other obligation in advance of the time such payments, damages, or costs are due.

(e)(1) For those cooperative projects entered into on or after the effective date of the International Security and Development Cooperation Act of 1985, the President may reduce or waive the charge or charges which would otherwise be considered appropriate under section 21(e) of this Act in connection with sales under sections 21 and 22 of this Act when such sales are made as part of such cooperative project, if the other participants agree to reduce or waive corresponding charges.

(2) Notwithstanding provisions of section 21(e)(1)(A) and section 43(b) of this Act, administrative surcharges shall not be increased on other sales made under this Act in order to compensate for reductions or waivers of such surcharges under this section. Funds received pursuant to such other sales shall not be available to reimburse the costs incurred by the United States Government for which reduction or waiver is approved by the President under this section.

(f) Not less than 30 days before a cooperative project agreement is signed on behalf of the United States, the President shall transmit to the Speaker of the House of Representatives, the chairman of the Committee on Foreign Relations of the Senate, and the chairman of the Committee on Armed Services of the Senate, a numbered certification with respect to such proposed agreement, setting forth—

(1) a detailed description of the cooperative project with respect to which the certification is made;

(2) an estimate of the quantity of the defense articles expected to be produced in furtherance of such cooperative project;

(3) an estimate of the full cost of the cooperative project, with an estimate of the part of the full cost to be incurred by the United States Government, including an estimate of the costs as a result of waivers of section 21(e)(1)(A) and 43(b) of this Act," [88] for its participation in such cooperative project and an estimate of that part of the full costs to be incurred by the other participants;

(4) an estimate of the dollar value of the funds to be contributed by the United States and each of the other participants on behalf of such cooperative project;

(5) a description of the defense articles and defense services expected to be contributed by the United States and each of the other participants on behalf of such cooperative project;

(6) a statement of the foreign policy and national security benefits anticipated to be derived from such cooperative project; and

(7) to the extent known, whether it is likely that prime contracts will be awarded to particular prime contractors or that subcontracts will be awarded to particular subcontractors to comply with the proposed agreement.

(g) [89] In the case of a cooperative project with a North Atlantic Treaty Organization country, section, 36(b) of this Act shall not apply to sales made under section 21 or 22 of this Act and to production and exports made pursuant to cooperative projects under this section, and section 36(c) of this Act shall not apply to the issuance of licenses or other approvals under section 38 of this Act, if such sales are made, such production and exports ensue, or such licenses or approvals are issued, as part of a cooperative project.

(h) The authority under this section is in addition to the authority under sections 21 and 22 of this Act and under any other provision of law.

(i)(1) With the approval of the Secretary of State and the Secretary of Defense, a cooperative agreement which was entered into by the United States before the effective date of the amendment to this section made by the International Security and Development Cooperation Act of 1985 and which meets the requirements of this section as so amended may be treated on and after such date as having been made under this section as so amended.

(2) Notwithstanding the amendment made to this section made by the International Security and Development Cooperation Act of 1985, projects entered into under the authority of this section before the effective date of that amendment may be carried through to conclusion in accordance with the terms of this section as in effect immediately before the effective date of that amendment.

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[88] The words beginning with "including" and ending with "Act" were added by sec. 1103(a)(1)(B) of Public Law 99-661, 100 Stat. 3816.

[89] The words beginning with "In the case of" and ending with "section" were added by sec. 1103(a)(1)(c) of Public Law 99-661, 100 Stat. 3816.

(j)(1)[90] The President may enter into a cooperative project agreement with any friendly foreign country not a member of the North Atlantic Treaty Organization under the same general terms and conditions as the President is authorized to enter into such an agreement with one or more member countries of the North Atlantic Treaty Organization if the President determines that the cooperative project agreement with such country would be in the foreign policy or national security interests of the United States.

(2) Not later than January 1 of each year, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report specifying (A) the countries eligible for participation in such a cooperative project agreement under this subsection, and (B) the criteria used to determine the eligibility of such countries.

Sec. 28.[91] Reports on Price and Availability Estimates.—(a) The President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, within fifteen days[92] after the end of each calendar quarter, a report listing each price and availability estimate provided by the United States Government during such quarter to a foreign country with respect to a possible sale under this Act of major defense equipment for $7,000,000 or more,[93] of any other defense articles or defense services for $25,000,000 or more, or of any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the possible sale).[94] Each such listing shall specify the name of the country to which the estimate was provided, the defense articles or services involved, the quantity involved, and the price estimate provided.

(b) Such reports shall also list each request received by the United States Government from a foreign country, during the quarter in question, for the issuance of a letter of offer to sell defense articles or defense services if (1) the proposed sale has not been the subject of a listing pursuant to subsection (a) of this section, and (2) the request involves a proposed sale of major defense equipment for $7,000,000 or more,[93] of any other defense articles or defense services for $25,000,000 or more, or of any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the possible sale).[94,95] Each such listing shall include the name of the country making the request, the date of the request, the defense articles or services involved, the quantity involved, and the price and availability terms requested.

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[90] Subsec. (j) was added by sec. 1103(a)(1)(D) of Public Law 99-661, 100 Stat. 3816.

[91] 22 U.S.C. 2768. Sec. 28 was added by sec. 16 of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 708).

[92] The number of days was increased from 5 to 15 by sec. 101(b)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1520).

[93] Sec. 588(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268-51) struck out "or" at this point and inserted ", ".

[94] Sec. 588(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268-51), added text to this point from "or of any".

[95] The text of phrase (2) was amended and restated by sec. 101(b)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-1131, 95 Stat. 1520). It formerly read as follows: "(2) the issuance of a letter of offer in accordance with such request would be subject to the requirements of section 36(b) of this Act."

Chapter 2A—FOREIGN MILITARY CONSTRUCTION SALES[96]

Sec. 29.[97] **Foreign Military Construction Sales.**—The President may sell design and construction services to any eligible foreign country or international organization if such country or international organization agrees to pay in United States dollars not less than the full cost to the United States Government of furnishing such services. Payment shall be made to the United States Government in advance of the performance of such services by officers or employees of the United States Government. The President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of design and construction services for sale under this section if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such time as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due.

Chapter 2B—SALES TO UNITED STATES COMPANIES FOR INCORPORATION INTO END ITEMS

Sec. 30.[98] **General Authority.**—(a) Subject to the conditions specified in subsection (b) of this section, the President may, on a negotiated contract basis, under cash terms (1) sell defense articles at not less than their estimated replacement cost (or actual cost in the case of services), or (2) procure or manufacture and sell defense articles at not less than their contract or manufacturing cost to the United States Government, to any United States company for incorporation into end items (and for concurrent or follow-on support) to be sold by such a company on a direct commercial basis to a friendly foreign country or international organization pursuant to an export license or approval under section 38 of this Act. The President may also sell defense services in support of such sales of defense articles, subject to the requirements of this chapter: *Provided, however,* That such services may be performed only in the United States. The amount of reimbursement received from such sales shall be credited to the current applicable appropriation, fund, or account of the selling agency of the United States Government.

(b) Defense articles and defense services may be sold, procured and sold, or manufactured and sold, pursuant to subsection (a) of this section only if (1) the end item to which the articles apply is to be procured for the armed forces of a friendly country or international organization, (2) the articles would be supplied to the prime contractor as government-furnished equipment or materials if the end item were being procured for the use of the United States Armed Forces, and (3) the articles and services are available only from United States Government sources or are not available to the prime contractor directly from United States commercial sources at such times as may be required to meet the prime contractor's delivery schedule.

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[96] Chapter 2A was added by sec. 105 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3133).

[97] 22 U.S.C. 2769.

[98] 22 U.S.C. 2770. Sec. 30 was added by sec. 1 of Public Law 97–392 (96 Stat. 1962).

(c) For the purpose of this section, the terms "defense articles" and "defense services" mean defense articles and defense services as defined in sections 47(3) and 47(4) of this Act.

Chapter 2C [99]—EXCHANGE OF TRAINING AND RELATED SUPPORT

Sec. 30A.[99] Exchange of Training and Related Support.—(a) Subject to subsection (b), the President may provide training and related support to military and civilian defense personnel of a friendly foreign country or an international organization. Such training and related support shall be provided by a Secretary of a military department and may include the provision of transportation, food services, health services, and logistics and the use of facilities and equipment.

(b) Training and related support may be provided under this section only pursuant to an agreement or other arrangements providing for the provision by the recipient foreign country or international organization, on a reciprocal basis, of comparable training and related support to military and civilian personnel under the jurisdiction of the Secretary of the military department providing the training and related support under this section. Such reciprocal training and related support must be provided within a reasonable period of time (which may not be more than one year) of the provision of training and related support by the United States. To the extent that a foreign country or international organization to which training and related support is provided under this section does not provide such comparable training and related support to the United States within a reasonable period of time, that country or international organization shall be required to reimburse the United States for the full costs of the training and related support provided by the United States.

(c) Training and related support under this section shall be provided under regulations prescribed by the President.

(d) Not later than February 1 of each year, the President shall submit to the Congress a report on the activities conducted pursuant to this section during the preceding fiscal year, including the estimated full costs of the training and related support provided by the United States to each country and international organization and the estimated value of the training and related support provided to the United States by that country or international organization.

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[99] 22 U.S.C. 2770a. Chapter 2C (sec. 30A) was added by sec. 116 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 202).

Chapter 3—MILITARY EXPORT CONTROLS

Sec. 31.[100] Authorization and Aggregate Ceiling on Foreign Military Sales Credits.—(a) There are authorized to be appropriated to the President to carry out this Act $5,371,000,000 for fiscal year 1986 and $5,371,000,000 for the fiscal 1987.[101] Credits may not

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[100] 22 U.S.C. 2771.

[101] The authorization figures for years 1986 and 1987 were added by sec. 101(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 193). Past figures authorized under Sec. 31(a) are as follows: fiscal year 1969—$269,000,000; fiscal year 1970—$250,000,000; fiscal year 1971—$250,000,000; fiscal year 1972—$400,000,000; fiscal year 1974—$325,000,000; fiscal year 1975—$1,039,000,000; fiscal year 1977—$740,000,000; fiscal year 1978—$682,000,000; fiscal year 1979—$674,300,000; fiscal year 1980—$673,500,000; fiscal year 1981—$500,000,000; fiscal year 1982—$800,000,000; fiscal year 1983—$800,000,000; fiscal year 1984—$1,315,000,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following:

"FOREIGN MILITARY FINANCING PROGRAM

"For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,862,750,000: *Provided*, That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, not less than $1,300,000,000 shall be available for grants only for Egypt, not less than $230,000,000 shall be available for grants only for Pakistan, not less than $52,000,000 shall be available for grants only for Morocco, and not less than $30,000,000 shall be available for grants only for Tunisia: *Provided further*, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further*, That grants shall be provided with the funds appropriated by this paragraph notwithstanding any requirement in section 23 of the Arms Export Control Act for repayment and shall be implemented by grant documents which do not include a requirement to repay the United States Government with respect to any funds provided under this paragraph.

"For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $410,000,000: *Provided*, That any funds made available by this paragraph except as otherwise specified, may be made available at concessional rates of interest: *Provided further*, That the concessional rate of interest on foreign military credit sales loans shall be not less than 5 percent per year: *Provided further*, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further*, That during fiscal year 1989, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $410,000,000.

"Of the funds appropriated under both the 'Military Assistance' heading and this heading $500,000,000 only shall be available for Turkey and $350,000,000 only shall be available for Greece: *Provided*, That funds previously obligated for the Philippines under the heading 'Foreign Military Credit Sales' but uncommitted on the date of enactment of this Act shall be used only to finance sales made under the Arms Export Control Act: *Provided further*, That of the funds appropriated under this heading, not less than $409,750,000 shall be available only for use in financing the procurement of defense articles, defense services, or design and construction services that are sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further*, That any reference in title V of this Act to 'Foreign Military Credit Sales' shall be deemed to be a reference to grants and loans pursuant to the Foreign Military Finance Program under this heading.

"FOREIGN MILITARY SALES DEBT REFORM

"Funds made available by the Foreign Operations, Export Financing and Related Programs, Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading 'Foreign Military Sales Debt Reform', subsection (b) 'Interest Rate Reduction' shall be available, subject to the same conditions and provisos, only after October 1, 1989.

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be extended under section 23 of this Act in an amount, and loans may not be guaranteed under section 24(a) of this Act in a principal amount, which exceeds any maximum amount which may be established with respect to such credits or such loan guarantees in legislation appropriating funds to carry out this Act.[102] Unobligated balances of funds made available pursuant to this section are hereby authorized to be continued available by appropriations legislation to carry out this Act.

(b) [103] (1) The total amount of credits extended under section 23 of this Act shall not exceed $5,371,000,000 for fiscal year 1986 and $5,371,000,000 for fiscal year 1987.

(2) Of the aggregate amount of financing provided under this section, not more than $553,900,000 for fiscal year 1986 and not more than $553,900,000 for fiscal year 1987 may be made available at concessional rates of interest. If a country is released from its contractual liability to repay the United States Government with respect to financing provided under this section, such financing shall not be considered to be financing provided at concessional rates of interest for purposes of the limitation established by this paragraph.

(c) [103] For fiscal year 1986 and fiscal year 1987, the principal amount of credits provided under section 23 at market rates of interest with respect to Greece, the Republic of Korea, the Philippines, Portugal, Spain, Thailand, and Turkey shall (if and to the extent each country so desires) be repaid in not more than twenty years, following a grace period of ten years on repayment of principal.

"GUARANTY RESERVE FUND

"If during fiscal year 1989 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading 'Foreign Military Sales Debt Reform', the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States."

For text of provisions on Foreign Military Sales Debt Reform in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100-202, sec. 101(e)), see page 580.

[102] This sentence was added by sec. 104(d) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3133).

[103] Sec. 101(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 193), amended and restated secs. 31 (b) and (c) and added authorizations for fiscal year 1986 and fiscal year 1987. Authorizations enacted under previous years are as follows: Fiscal year 1981—$500,000,000; fiscal year 1982—$800,000,000; fiscal year 1983—$800,000,000; fiscal year 1984—$1,315,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization. See fn. 101.

Sec. 101 (c), (d), (e) and (f) of Public Law 99-83 also included specific earmarks and conditions on the use of credits authorized under sec. 23 for Israel, Egypt, Greece and Turkey.

(d)[104] The aggregate acquisition cost to the United States of excess defense articles ordered by the President in any fiscal year after fiscal year 1976 for delivery to foreign countries or international organizations under the authority of chapter 2 of part II of the Foreign Assistance Act of 1961 or pursuant to sales under this Act may not exceed $250,000,000[105] (exclusive of ships and their onboard stores and supplies transferred in accordance with law).

Sec. 32.[106] **Prohibition Against Certain Military Export Financing by Export-Import Bank.**—Notwithstanding any other provision of law, no funds or borrowing authority available to the Export-Import Bank of the United States shall be used by such Bank to participate in any extension of credit in connection with any agreement to sell defense articles and defense services entered into with any economically less developed country after June 30, 1968.

Sec. 33.[107] **Restraint in Arms Sales to Sub-Saharan Africa.**—It is the sense of the Congress that the problems of Sub-Saharan Africa are primarily those of economic development and that United States policy should assist in limiting the development of costly military conflict in that region. Therefore, the President shall exercise restraint in selling defense articles and defense services, and in providing financing for sales of defense articles and defense services, to countries in Sub-Saharan Africa.

Sec. 34.[108] **Foreign Military Sales Credit Standards.**—The President shall establish standards and criteria for credit and guaranty transactions under sections 23 and 24 in accordance with the foreign, national security, and financial policies of the United States.

Sec. 35.[109] **Foreign Military Sales to Less Developed Countries.**—(a) When the President finds that any economically less developed country is diverting development assistance furnished pursuant to the Foreign Assistance Act of 1961, as amended, or sales under the Agricultural Trade Development and Assistance Act of 1954, as amended, to military expenditures, or is diverting its own resources to unnecessary military expenditures, to a degree which materially interferes with its development, such country shall be immediately ineligible for further sales and guarantees under sections 21, 22, 23, and 24, until the President is assured that such diversion will no longer take place.

(b)[110] * * * [Repealed—1974]

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[104] Subsec. (d) was added by sec. 210(c)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 740).

[105] This figure was increased from $150,000,000 by sec. 17(a)(4) of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 709). Prior to fiscal year 1979, the figure had been $100,000,000.

[106] 22 U.S.C. 2772.

[107] 22 U.S.C. 2773. Sec. 3 was amended and restated by sec. 18 of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 709). It formerly read as follows:

"Sec. 33. Regional Ceiling on Foreign Military Sales.—(a) The aggregate of the total amount of military assistance pursuant to the Foreign Assistance Act of 1961, as amended, of credits, or participations in credits, financed pursuant to section 23, of the principal amount of loans guaranteed pursuant to section 24(a), shall, excluding training, not exceed $40,000,000 in each fiscal year for African countries.

"(b) The President may waive the limitations of this section when he determines it to be important to the security of the United States and promptly so reports to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate."

[108] 22 U.S.C. 2774.

[109] 22 U.S.C. 2775.

[110] Subsec. (b) was repealed by sec. 45(a)(5) of the FA Act of 1974.

Sec. 36. [111] **Reports on Commercial and Governmental Military Exports; Congressional Action.**—(a) The President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate not more than sixty days [112] after the end of each quarter an unclassified report (except that any material which was transmitted in classified form under subsection (b)(1) or (c)(1) of this section may be contained in a classified addendum to such report, and any letter of offer referred to in paragraph (1) of this subsection may be listed in such addendum unless such letter of offer has been the subject of an unclassified certification pursuant to subsection (b)(1) of this section) containing—

(1) a listing of all letters of offer to sell any major defense equipment for $1,000,000 or more under this Act to each foreign country and international organization, by category, if such letters of offer have not been accepted or canceled;

(2) a listing of all such letters of offer that have been accepted during the fiscal year in which such report is submitted, together with the total value of all defense articles and defense services sold to each foreign country and international organization during such fiscal year;

(3) the cumulative dollar amounts, by foreign country and international organization, of sales credit agreements under

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[111] 22 U.S.C. 2776. Sec. 211(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329, 90 Stat. 740) amended sec. 36 which formerly read as follows:

"Sec. 36. Reports on Commercial and Governmental Military Exports.—

"(a) The President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate quarterly reports containing—

"(1) a listing of all letters of offer to sell any defense articles or services under this Act, if such offer has not been accepted or canceled;

"(2) a cumulative listing of all such letters of offer to sell that have been accepted during the fiscal year in which such report is submitted;

"(3) the cumulative dollar amounts, by foreign country and international organization, of credit sales under section 23 and guaranty agreements under section 24 made before the submission of such quarterly report and during the fiscal year in which such report is submitted; and

"(4) projections of the cumulative dollar amounts, by foreign country and international organization, of credit sales under section 23 and guaranty agreements under section 24 to be made in the quarter of the fiscal year immediately following the quarter for which such report is submitted.

"For each letter of offer to sell under paras. (1) and (2), the report shall specify (A) the foreign country or international organization to which the defense article or service is offered, (B) the dollar amount of the offer to sell under para. (1) or of the completed sale under para (2), (C) a brief description of the defense article or service offered, (D) the United States armed force which is making the offer to sell, (E) the date of such offer, and (F) the date of any acceptance under paragraph (2).

"(b) In the case of any letter of offer to sell any defense articles or services under this Act for $25,000,000 or more, before issuing such letter of offer the President shall submit to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate a statement with respect to such offer to sell containing the information specified in subparagraphs (A) through (E) in subsection (a). The letter of offer shall not be issued if the Congress, within twenty calendar days after receiving any such statement, adopts a concurrent resolution stating in effect that it objects to such proposed sale, unless the President in his statement certifies that an emergency exists which requires such sale in the national security interests of the United States.

"(c) Nothing in this section shall be construed as modifying in any way the provisions of section 414 of the Mutual Security Act of 1954, as amended, relating to munitions control."

Sec. 211(b) of the same Act further stated: "The amendment made by subsection (a) of this section shall apply with respect to letters of offer for which a certification is transmitted pursuant to section 36(b) of the Arms Export Control Act on or after the date of enactment of this Act and to export licenses for which an application is filed under section 38 of such Act on or after such date."

[112] The number of days was increased from 30 to 60 by sec. 19(a)(1) of the International Security Assistance Act of 1979 (Public Law 96–92, 93 Stat. 709).

section 23 and guaranty agreements under section 24 made during the fiscal year in which such report is submitted;

(4) a numbered listing of all licenses and approvals for the export to each foreign country and international organization during such fiscal year of commercially sold major defense equipment, by category, sold for $1,000,000 or more, together with the total value of all defense articles and defense services so licensed for each foreign country and international organization, setting forth, with respect to the listed major defense equipment—

(A) the items to be exported under the license,

(B) the quantity and contract price of each such item to be furnished, and

(C) the name and address of the ultimate user of each such item;

(5) [113] projections of the dollar amounts, by foreign country and international organization, of sales expected to be made under sections 21 and 22, in the quarter of the fiscal year immediately following the quarter for which such report is submitted;

(6) [113] a projection with respect to all sales expected to be made to each country and organization for the remainder of the fiscal year in which such report is transmitted;

(7) [114] an estimate of—

(A) the number of United States military personnel, the number of United States Government civilian personnel, and the United States civilian contract personnel, who were in each foreign country at the end of that quarter, and

(B) the number of members of each such category of personnel who were in each foreign country at any time during that quarter,

in implementation of sales and commercial exports under this Act or of assistance under chapter 2, 5, 6, or 8 of part II of the Foreign Assistance Act of 1961, including both personnel assigned to the country and personnel temporarily in the country by detail or otherwise;

(8) [115] a description of each payment, contribution, gift, commission, or fee reported to the Secretary of State under section 39, including (A) the name of the person who made such payment, contribution, gift, commission, or fee; (B) the name of any sales agent or other person to whom such payment, contri-

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[113] Sec. 1209(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 279), deleted references in pars. (5) and (6) to "cash sales, and credits, and guaranty agreements".

[114] Paragraph (7) was amended and restated by sec. 1209(c) of Public Law 99-83, 99 Stat. 279.

[115] Sec. 604(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 766) redesignated par. (8) as par. (9) and inserted a new par. (8). Sec. 604(c) of the same Act stated that par. (8) would "take effect sixty days after the date of enactment of this Act" (August 29, 1976).

Paragraph (9), as redesignated by this amendment, was struck out by Sec. 19(a)(4) of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 709). It formerly read as follows:

"(9) an analysis and description of the services being performed by officers and employees of the United States Government under section 21(a) of this Act, including the number of personnel so employed."

bution, gift, commission, or fee was paid; (C) the date and amount of such payment, contribution, gift, commission, or fee; (D) a description of the sale in connection with which such payment, contribution, gift, commission, or fee was paid; and (E) the identification of any business information considered confidential by the person submitting it which is included in the report; and

(9) [116] a listing of each sale under section 29 during the quarter for which such report is made, specifying (A) the purchaser, (B) the United States Government department or agency responsible for implementing the sale, (C) an estimate of the dollar amount of the sale, and (D) a general description of the real property facilities to be constructed pursuant to such sale.

(10) [117] * * * [Repealed—1981]

For each letter of offer to sell under paragraphs (1) and (2), the report shall specify (i) the foreign country or international organization to which the defense article or service is offered or was sold, as the case may be: (ii) the dollar amount of the offer to sell or the sale and the number of defense articles offered or sold, as the case may be; (iii) a description of the defense article or service offered or sold, as the case may be; and (iv) the United States Armed Forces or other agency of the United States which is making the offer to sell or the sale, as the case may be.

(b)(1) In the case of any letter of offer to sell any defense articles or services under this Act for $50,000,000 [118] or more, any design and construction services for $200,000,000 or more,[119] or any major defense equipment for $14,000,000 [120] or more, before such letter of offer is issued, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a numbered certification with respect to such offer to sell containing the information specified in clauses (i) through (iv) of subsection (a), or (in the case of a sale of design and construction services) the information specified in clauses (A) through (D) of paragraph (9) of subsection (a),[121] and a description, containing the information specified in paragraph (8) of subsection (a), of any contribution, gift, commission, or fee paid or offered or agreed to be paid in order to solicit, promote, or otherwise to secure such letter of offer. Such numbered certifications shall also contain an item, classified if necessary, identifying the sensitivity of technology contained in the defense articles, defense services, or design and construction services[122] proposed to be sold,[123] and a detailed justification of the reasons necessitating the sale of such articles or services in view of the sensitivity of such technology.[124] In addition, the President shall, upon the request of such committee or the Committee on International Relations of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request—

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[116] Paragraph (9) was added by sec. 105(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3134).

[117] Paragraph (10), as added by sec. 109(f) of Public Law 96-533, was repealed by sec. 109(d)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1526). Par. (10) had required information concerning leases of property valued at over $1,000,000 to a foreign government. Leases of defense articles are now covered under chapter 6 of this Act (page 311).

[118] This figure was increased from $25,000,000 to $50,000,000 by sec. 101 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1520).

[119] The words "any design and construction services for $200,000,000 or more," were added by sec. 105(d)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3134).

[120] This figure was increased from $7,000,000 to $14,000,000 by sec. 101 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1520).

[121] The words to this point beginning with ", or (in the case of * * *" were added by sec. 105(d)(2)(A) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3134).

(A) a detailed description of the defense articles, defense services, or design and construction services[125] to be offered, including a brief description of the capabilities of any defense article to be offered;

(B) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in such country to carry out the proposed sale;

(C) the name of each contractor expected to provide the defense article, defense service, or design and construction services[126] proposed to be sold (if known on the date of transmittal of such statement);

(D)[127] an evaluation, prepared by the Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense, of the manner, if any, in which the proposed sale would—

(i) contribute to an arms race;

(ii) increase the possibility of an outbreak or escalation of conflict;

(iii) prejudice the negotiation of any arms controls; or

(iv) adversely affect the arms control policy of the United States;

(E) the reasons why the foreign country or international organization to which the sale is proposed to be made needs the defense articles, defense services, or design and construction services[125] which are the subject of such sale and a description of how such country or organization intends to use such defense articles, defense services, or design and construction services;[125]

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[122] The reference to design and construction services was added by sec. 105(d) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3134).

[123] This sentence to this point was added by sec. 20(b) of the International Security Assistance Act of 1979 (Public Law 96–92, 93 Stat. 710).

[124] The words to this point beginning with "and a detailed justification" were added by sec. 1180) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 995 Stat. 203).

[125] The reference to defense services or design and construction services was added by sec. 105(d)(2)(C)(ix) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3135).

[126] The reference to design and construction service was added by sec. 105(d)(2)(C)(ii) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3134).

[127] Subparagraph (D) was amended and restated by sec. 21(1) of the International Security Assistance Act of 1978 (Public Law 95–384, 92 Stat. 741). It formerly read as follows: "(D) an analysis of the arms control impact pertinent to such offer to sell, prepared in consultation with the Secretary of Defense;".

(F) an analysis by the President of the impact of the proposed sale on the military stocks and the military preparedness of the United States;

(G) the reasons why the proposed sale is in the national interest of the United States;

(H) an analysis by the President of the impact of the proposed sale on the military capabilities of the foreign country or international organization to which such sale would be made;

(I) an analysis by the President of how the proposed sale would affect the relative military strengths of countries in the region to which the defense articles, defense services, or design and construction services [125] which are the subject of such sale would be delivered and whether other countries in the region have comparable kinds and amounts of defense articles, defense services, or design and construction services;[125]

(J) an estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization to which the sale would be made which are needed and available to utilize effectively the defense articles, defense services, or design and construction services [125] proposed to be sold;

(K) an analysis of the extent to which comparable kinds and amounts of defense articles, defense services, or design and construction services [125] are available from other countries;

(L) an analysis of the impact of the proposed sale on United States relations with the countries in the region to which the defense articles, defense services, or design and construction services [125] which are the subject of such sale would be delivered;

(M) a detailed description of any agreement proposed to be entered into by the United States for the purchase or acquisition by the United States of defense articles, defense services, design and construction services [122] or defense equipment, or other articles, services, or equipment of the foreign country or international organization in connection with, or as consideration for, such letter of offer, including an analysis of the impact of such proposed agreement upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States, an estimate of the costs to be incurred by the United States in connection with such agreement compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result from entering into such proposed agreement, and an analysis of whether such costs and such domestic economic impact justify entering into such proposed agreement;

(N) [128] the projected delivery dates of the defense articles, defense services, or design and construction services [125] to be offered;

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[128] Subparagraphs (N), (O) and (P) were added by sec. 21(4) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 741).

(O) [128] a detailed description of weapons and levels of munitions that may be required as support for the proposed sale; and

(P) [128] an analysis of the relationship of the proposed sale to projected procurements of the same item.

A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (ii) and the details of the description specified in clause (iii) of subsection (a) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States. The letter of offer shall not be issued, with respect to a proposed sale to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, if the Congress, within fifteen calendar days after receiving such certification, or with respect to a proposed sale to any other country or organization, if the Congress within thirty calendar days [129] after receiving such certification,[130] enacts a joint [131] resolution prohibiting the proposed sale, unless the President states in his certification that an emergency exists which requires such sale in the national security interests of the United States. If the President states in his certification that an emergency exists which requires the proposed sale in the national security interest of the United States, thus waiving the congressional review requirements of this subsection, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security interests involved.[132]

(2) Any such joint [131] resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that for purposes of consideration of any joint [131] resolution with respect to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, it shall be in order in the Senate to move to discharge a committee to which such joint [131] resolution was referred if such committee has not reported such joint [131] resolution at the end of five calendar days after its introduction.[133]

(3) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint [131] resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

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[129] With regard to the sale to Jordan of advanced weapons systems, see Public Law 99-162, 99 Stat. 937, page 697.

[130] The words in this sentence to this point beginning with "with respect to a proposed sale * * *" were inserted in lieu of the words "if the Congress, within thirty calendar days after receiving such certification," by sec. 102(b)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1520).

[131] References to a "joint" resolution instead of a "concurrent" resolution were added by Public Law 99-247, 100 Stat. 9.

[132] This sentence was added by sec. 19(c) of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 709).

[133] The words to this point beginning with ", except that for purposes of * * *" were added by sec. 102(b)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1520).

(4)[134] In addition to the other information required to be contained in a certification submitted to the Congress under this subsection, each such certification shall cite any quarterly report submitted pursuant to section 28 of this Act which listed a price and availability estimate, or a request for the issuance of a letter of offer, which was a basis for the proposed sale which is the subject of such certification.

(5)[135] (A) If, before the delivery of any major defense article or major defense equipment, or the furnishing of any defense service or design and construction service, sold pursuant to a letter of offer described in paragraph (1), the sensitivity of technology or the capability of the article, equipment, or service is enhanced or upgraded from the level of sensitivity or capability described in the numbered certification with respect to an offer to sell such article, equipment, or service, then, at least 45 days before the delivery of such article or equipment or the furnishing of such service, the President shall prepare and transmit to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report—

(i) describing the manner in which the technology or capability has been enhanced or upgraded and describing the significance of such enhancement or upgrade; and

(ii) setting forth a detailed justification for such enhancement or upgrade.

(B) The provisions of subparagraph (A) apply to an article or equipment delivered, or a service furnished, within ten years after the transmittal to the Congress of a numbered certification with respect to the sale of such article, equipment, or service.

(C) If the enhancement or upgrade in the sensitivity of technology or the capability of major defense equipment, defense articles, defense services, or design and construction services described in a numbered certification submitted under this subsection costs $14,000,000 or more in the case of any major defense equipment, $50,000,000 or more in the case of defense articles or defense services, or $200,000,000 or more in the case of design or construction services, then the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a new numbered certification which relates to such enhancement or upgrade and which shall be considered for purposes of this subsection as if it were a separate letter of offer to sell defense equipment, articles, or services, subject to all of the requirements, restrictions, and conditions set forth in this subsection. For purposes of this subparagraph, references in this subsection to sales shall be deemed to be references to enhancements or upgrades in the sensitivity of technology or the capability of major defense equipment, articles, or services, as the case may be.

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[134] Paragraph (4) was added by sec. 16(b) of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 708).

[135] Paragraph 5 was added by sec. 118(2) of the International Security and Development Cooperation Act of 1983 (Public Law 99-83, 99 Stat. 203).

(D) For the purposes of subparagraph (A), the term "major defense article" shall be construed to include electronic devices, which if upgraded, would enhance the mission capability of a weapons system.

(c)(1) [136] In the case of an application by a person (other than with regard to a sale under section 21 or section 22 of this Act) for a license for the export of any major defense equipment sold under a contract in the amount of $14,000,000 [120] or more or of defense articles or defense services sold under a contract in the amount of $50,000,000 [118] or more,[137] before issuing such license the President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate an unclassified numbered certification with respect to such application specifying (A) the foreign country or international organization to which such export will be made, (B) the dollar amount of the items to be exported, and (C) a description of the items to be exported. In addition, the President shall, upon the request of such committee or the Committee on International Relations of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request a description of the capabilities of the items to be exported, an estimate of the total number of United States personnel expected to be needed in the foreign country concerned in connection with the items to be exported and an analysis of the arms control impact pertinent to such application, prepared in consultation with the Secretary of Defense. A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (B) and the details of the description specified in clause (C) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States.

(2) [136] Unless the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, a license for export described in paragraph (1)—

(A) shall not be issued until at least 30 calendar days after the Congress receives such certification; and

(B) shall not be issued then if the Congress, within such 30-day period, enacts a joint [131] resolution prohibiting the proposed export, except that this subparagraph does not apply with respect to a license issued for an export to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.

If the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, thus waiving the requirements of subparagraphs (A) and (B) of this paragraph, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the export license and a discussion of the national security interests involved.

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[136] Sec. 107(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3136) added the paragraph designation "(1)", made several technical changes to par. (1), and added new pars. (2) and (3)

[137] The words "not less than 30 days" which formerly appeared at this point, were struck out by sec. 107(b)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3136). This 30-day prior notification requirement is now included in par. (2) of subsec. (c).

(3) [136] (A) Any joint [131] resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint [131] resolutions under this subsection, a motion to proceed to the consideration of any such joint [131] resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(d) In the case of an approval under section 38 of this Act of a United States commercial technical assistance or manufacturing licensing agreement for or in a country not a member of the North Atlantic Treaty Organization which involves the manufacture abroad of any item of significant combat equipment on the United States Munitions List, before such approval is given, the President shall submit a certification with respect to such proposed commercial agreement in a manner similar to the certification required under subsection (c)(1) containing comparable information, except that the last sentence of such subsection shall not apply to certifications submitted pursuant to this subsection.

Sec. 37.[138] Fiscal Provisions Relating to Foreign Military Sales Credits.—(a) Cash payments received under sections 21, 22, and 29 [139] and advances received under section 23 shall be available solely for payments to suppliers (including the military departments) and refunds to purchasers and shall not be available for financing credits and guaranties.

(b) Amounts received from foreign governments and international organizations as repayments for credits extended pursuant to section 23, amounts received from the disposition of instruments evidencing indebtedness under section 24(b) (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 24(b), which sums are made available for such obligations),[140] and other collections (including fees and interest) shall be transferred to the miscellaneous receipts of the Treasury.

(c) [141] Notwithstanding the provisions of subsection (b), to the extent that any of the funds constituting the reserve under section 24(c) are paid out for a claim arising out of a loan guaranteed under section 24, amounts received from a foreign government or international organization after the date of such payment, with respect to such claim, shall be credited to such reserve, shall be merged with the funds in such reserve, and shall be available for any purpose for which funds in such reserve are available.

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[138] 22 U.S.C. 2777.

[139] The references to sec. 29 was added by sec. 105(e)(1) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3135).

[140] The words to this point beginning with "under section 24(b) (excluding" were added by sec. 25(11) of the FA Act of 1973.

[141] Subsec. (c) was added by sec. 104(b) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3133).

Sec. 38.[142] **Control of Arms Exports and Imports.**—(a)(1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall be made in coordination with the director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.

(3) [143] In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this Act as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations.

(b)(1)(A) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State for local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this Act or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

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[142] 22 U.S.C. 2778. Sec. 38 was added by sec. 212(a)(1) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329, 90 Stat. 744). Sec. 212(b) of the same Act repealed sec. 414 of the Mutual Security Act of 1954 and stated that any reference to sec. 414 would be considered as a reference to sec. 38 of the Arms Export Control Act.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) provided the following:

"Sec. 533. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least 15 days in advance.

"(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country."

[143] Paragraph (3) was added by sec. 107(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3136).

(B) [144] A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. The Secretary shall report to the President regarding such concerns as necessary.

(B) [144] The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this Act or any other foreign assistance or sales program of the United States if—

(i) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of title 18, United States Code (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

(ii) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.

(2) Except as otherwise specifically provided in regulations issued under subsection (a)(1), no defense articles or defense services designated by the President under subsection (a)(1) may be exported or imported without a license for such export or import, issued in accordance with this Act and regulations issued under this Act, except that no license shall be required for exports or imports made by or for an agency of the United States Government (A) for official use by a department or agency of the United States Government, or (B) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(3) [145] (A) For each of the fiscal years 1988 and 1989, $250,000 of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

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[144] The first subparagraph (B) was added by sec. 1255(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1431). The second subparagraph (B), which should probably have been designated subpara. (C) was added by sec. 8142(a) of the Department of Defense Appropriations Act, 1988 (sec. 101(b) of the Continuing Appropriations for 1988, Public Law 100–202, 101 Stat. 1329–88).

[145] Paragraph (3) was added by sec. 1255(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204, 101 Stat. 1431). The original para. (3), as amended by sec. 21 of Public Law 96-92 (93 Stat. 710) and sec. 107(a) of Public Law 96–533 (94 Stat. 3136), was repealed by sec. 106 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1522). Par. (3) had stipulated that no license could be issued under this Act for the export of any major defense equipment sold under contract in the amount of $100,000,000 or more (exceptions were provided for NATO members, Australia, Japan, New Zealand, countries participating in co-production arrangements).

(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

(B) The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Any person who willfully violates any provision of this section or section 39, or any rule or regulation issued under either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined for each violation not more than $1,000,000,[146] or imprisoned not more than ten years, or both.

(d) [147] * * * [Repealed—1979]

(e) In carrying out functions under this section with respect to the export of defense articles and defense services, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (g) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act,[148] subject to the same terms and conditions as are applicable to such powers under such Act. Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress. Notwithstanding section 11(c) of the Export Administration Act of 1979, the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed $500,000.[149]

(f) [150] The President shall periodically review the items on the United States Munitions List to determine what items, if any, no longer warrant export controls under this section. The results of such reviews shall be reported to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such a report shall be submitted at least 30 days before any item is removed from the Munitions List and shall describe the nature of any controls to be imposed on that item under the Export Administration Act of 1979.[151]

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[146] Sec. 119(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 203) raised the amount of the fine to $1,000,000; added the limitation "for each violation"; and raised the period of imprisonment from two to ten years. Previously the fine was "not more than $100,000".

[147] Subsec. (d), which specified that sec. 38 would apply to and within the Canal Zone, was repealed by sec. 3303(a)(4) of the Panama Canal Act of 1979 (Public Law 96–70, 93 Stat. 499).

[148] These references to various sections of the Export Administration Act of 1979 were substituted in lieu of a series of references to secs. 6 and 7 of the Export Administration Act of 1969 (which expired on September 30, 1979) by sec. 22(a) of Public Law 96–72 (93 Stat. 535).

[149] The last sentence was added by sec. 119(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 204).

[150] Subsec. (f) was added by sec. 107 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1522).

[151] For text of this act, see vol. III, sec. J.

(g)[152] (1) The President shall develop appropriate mechanisms to identify, in connection with the export licensing process under this section—

(A) persons who are the subject of an indictment for, or have been convicted of, a violation under—

(i) this section,

(ii) section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410),

(iii) section 793, 794, or 798 of title 18, United States Code (relating to espionage involving defense or classified information),

(iv) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16),

(v) section 206 of the International Emergency Economic Powers Act (relating to foreign assets controls; 50 U.S.C. App. 1705),

(vi) section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd2),

(vii) chapter 105 of title 18, United States Code (relating to sabotage),

(viii) section 4(b) of the Internal Security Act of 1950 (relating to communication of classified information; 50 U.S.C. 783(b)),

(ix) section 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2077, 2122, 2131, 2134, 2272, 2274, 2275, and 2276),

(x) section 601 of the National Security Act of 1947 (relating to intelligence identities protection; 50 U.S.C. 421), or

(xi) section 603 (b) or (c) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5113 (b) and (c));

(B) persons who are the subject of an indictment or have been convicted under section 371 of title 18, United States Code, for conspiracy to violate any of the statutes cited in subparagraph (A); and

(C) persons who are ineligible—

(i) to contract with,

(ii) to receive a license or other form of authorization to export from, or

(iii) to receive a license or other form of authorization to import defense articles or defense services from,

any agency of the United States Government.

(2) The President shall require that each applicant for a license to export an item on the United States Munitions List identify in the application all consignees and freight forwarders involved in the proposed export.

(3) If the President determines—

(A) that an applicant for a license to export under this section is the subject of an indictment for a violation of any of the statutes cited in paragraph (1),

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[152] Subsec. (g) was added by sec. 1255 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204, 101 Stat. 1429).

(B) that there is reasonable cause to believe that an applicant for a license to export under this section has violated any of the statutes cited in paragraph (1), or

(C) that an applicant for a license to export under this section is ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from, any agency of the United States Government,

the President may disapprove the application. The President shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

(4) A license to export an item on the United States Munitions List may not be issued to a person—

(A) if that person, or any party to the export, has been convicted of violating a statute cited in paragraph (1), or

(B) if that person, or any party to the export, is at the time of the license review ineligible to receive export licenses (or other forms of authorization to export) from any agency of the United States Government,

except as may be determined on a case-by-case basis by the President, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to export and a finding by the President that appropriate steps have been taken to mitigate any law enforcement concerns.

(5) A license to export an item on the United States Munitions List may not be issued to a foreign person (other than a foreign government).

(6) The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person.

(7) The President shall, in coordination with law enforcement and national security agencies, develop standards for identifying high-risk exports for regular end-use verification. These standards shall be published in the Federal Register and the initial standards shall be published not later than October 1, 1988.

(8) Upon request of the Secretary of State, the Secretary of Defense and the Secretary of the Treasury shall detail to the office primarily responsible for export licensing functions under this section, on a nonreimbursable basis, personnel with appropriate expertise to assist in the initial screening of applications for export licenses under this section in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

(9) For purposes of this subsection—

(A) the term 'foreign corporation' means a corporation that is not incorporated in the United States;

(B) the term 'foreign government' includes any agency or subdivision of a foreign government, including an official mission of a foreign government;

(C) the term 'foreign person' means any person who is not a citizen or national of the United States or lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act, and includes foreign corporations, international organizations, and foreign governments;

(D) the term 'party to the export' means—

(i) the president, the chief executive officer, and other senior officers of the license applicant;

(ii) the freight forwarders or designated exporting agent of the license application; and

(iii) any consignee or end user of any item to be exported; and

(E) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities.

Sec. 39.[153] **Fees of Military Sales Agents and Other Payments.**—(a) In accordance with such regulations as he may prescribe, the Secretary of State shall require adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with—

(1) sales of defense articles or defense services under section 22, or of design and construction services under section 29 [154] of this Act; or

(2) commercial sales of defense articles or defense services licensed or approved under section 38 of this Act;

to or for the armed forces of a foreign country or international organization in order to solicit, promote, or otherwise to secure the conclusion of such sales. Such regulations shall specify the amounts and the kinds of payments, offers, and agreements to be reported, and the form and timing of reports, and shall require reports on the names of sales agents and other persons receiving such payments. The Secretary of State shall by regulation require such recordkeeping as he determines is necessary.

(b) The President may, by regulation, prohibit, limit, or prescribe conditions with respect to such contributions, gifts, commissions, and fees as he determines will be in furtherance of the purposes of this Act.

(c) No such contribution, gift, commission, or fee may be included, in whole or in part, in the amount paid under any procurement contract entered into under section 22 or section 29 [155] of this Act, unless the amount thereof is reasonable, allocable to such contract, and not made to a person who has solicited, promoted, or otherwise secured such sale, or has held himself out as being able to do so, through improper influence. For the purposes of this section, "improper influence" means influence, direct or indirect, which induces or attempts to induce consideration or action by any employee or officer of a purchasing foreign government or international organization with respect to such purchase on any basis other than such consideration of merit as are involved in comparable United States procurements.

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[153] 22 U.S.C. 2779. Sec. 39 was added by sec. 604(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 767) Sec. 604(c) of the same Act stated that this amendment "shall take effect sixty days after the date of enactment of this Act" (August 29, 1976).

[154] The reference to design and construction services under sec. 29 was added by sec. 105(e)(2)(A) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3135).

[155] The reference to sec. 29 was added by sec. 105(e)(2)(B) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3155).

(d)(1) All information reported to the Secretary of State and all records maintained by any person pursuant to regulations prescribed under this section shall be available, upon request, to any standing committee of the Congress or any subcommittee thereof and to any agency of the United States Government authorized by law to have access to the books and records of the person required to submit reports or to maintain records under this section.

(2) Access by an agency of the United States Government to records maintained under this section shall be on the same terms and conditions which govern the access by such agency to the books and records of the person concerned.

Sec. 40.[156] Exports to Countries Supporting Acts of International Terrorism.

(a) PROHIBITION.—Except as provided in subsection (b), items on the United States Munitions List may not be exported to any country which the Secretary of State has determined, for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), has repeatedly provided support for acts of international terrorism.

"(b) WAIVER.—The President may waive the prohibition contained in subsection (a) in the case of a particular export if the President determines that the export is important to the national interests of the United States and submits to the Congress a report justifying that determination and describing the proposed export. Any such waiver shall expire at the end of 90 days after it is granted unless the Congress enacts a law extending the waiver.

Chapter 4—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

Sec. 41. Effective Date.—This Act shall take effect on July 1, 1968.

Sec. 42.[157] General Provisions.—(a) In carrying out this Act, special emphasis shall be placed on procurement in the United States, but, subject to the provisions of subsection (b) of this section, consideration shall also be given [158] to coproduction or licensed production outside the United States of defense articles of United States origin when such production best serves the foreign policy, national security, and economy of the United States. In evaluating any sale proposed to be made pursuant to this Act, there shall be taken into consideration (1) the extent to which the proposed sale damages or infringes upon licensing arrangements whereby United States entities have granted licenses for the manufacture of the defense articles selected by the purchasing country to entities located in friendly foreign countries, which licenses result in financial returns to the United States,[159] (2) the portion of the defense articles so manufactured which is of United States origin, and (3) in coordination with the Director of the United States Arms Control and Disarmament Agency, the Director's opinion as to [160] the extent to which such sale might contribute to an arms race, or increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.[161]

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[156] 22 U.S.C. 2780. Sec. 40 was added by sec. 509(a) of Public Law 99-399, 100 Stat. 874.

[157] 22 U.S.C. 2791.

[158] The words "but, subject to the provisions of subsection (b) of this section, consideration shall also be given" were substituted in lieu of "but consideration shall also be given" by sec. 401(f)(1) of the FA Act of 1971 (Public Law 92-226).

[159] Sec. 401(e) of the FA Act of 1971 (Public Law 92-226) struck out the word "and" which appeared at this point.

(b) [162] No credit sale shall be extended under section 23, and no guarantee shall be issued under section 24, in any case involving coproduction or licensed,[163] production outside the United States of any defense article of United States origin unless the Secretary of State shall, in advance of any such transaction, advise the appropriate committees of the Congress and furnish the Speaker of the House of Representatives and the President of the Senate with full information regarding the proposed transaction, including, but not limited to, a description of the particular defense article or articles which would be produced under license or coproduced outside the United States, the estimated value of such production or coproduction, and the probable impact of the proposed transaction on employment and production within the United States.

(c) [162] Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States.

(d) [162] (1) With respect to sales and guaranties under sections 21, 22, 23, 24, 29, and 30 [164] the Secretary of Defense shall, under the direction of the President, have primary responsibility for—

(A) the determination of military end-item requirements;

(B) the procurement of military equipment in a manner which permits its integration with service programs;

(C) the supervision of the training of foreign military personnel;

(D) the movement and delivery of military end-items; and

(E) within the Department of Defense, the performance of any other functions with respect to sales and guaranties.

(2) The establishment of priorities in the procurement, delivery, and allocation of military equipment shall, under the direction of the President, be determined by the Secretary of Defense.

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[160] The words "in coordination with the Director of the United States Arms Control and Disarmament Agency, the Director's opinion as to" were inserted by sec. 150(b) of Public Law 94-141. Foreign Relations Authorization Act, Fiscal Year 1976.

[161] The words to this point, beginning with ", and (3) the extent", were added by sec. 401(e)(2) of the FA Act of 1971.

[162] Sec. 401(f)(2) of the FA Act of 1971 added subsecs. (b) and redesignated former subsecs. (b) and (c) as subsecs. (c) and (d), respectively.

[163] Although the slip law contains a comma between "licensed, production" in the first sentence, it is interpreted as "licensed production" with no comma.

[164] The reference to sec. 29 was added by sec. 105(e)(3) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3135). The reference to sec. 30 was added by sec. 2 of Public Law 97-392 (96 Stat. 1962).

(e)[165] (1) Each contract for sale entered into under sections 21, 22, 29, and 30[164] of this Act, and each contract entered into under section 27(d) of this Act,[166] shall provide that such contract may be canceled in whole or in part, or its execution suspended, by the United States at any time under unusual or compelling circumstances if the national interest so requires.

(2) (A) Each export license issued under section 38 of this Act shall provide that such license may be revoked, suspended, or amended by the Secretary of State, without prior notice, whenever the Secretary deems such action to be advisable.

(B) Nothing in this paragraph may be construed as limiting the regulatory authority of the President under this Act.

(3) There are authorized to be appropriated from time to time such sums as may be necessary (A) to refund moneys received from purchasers under contracts of sale entered into under sections 21, 22, 29, and 30[164] of this Act, or under contracts entered into under sec. 27(d) of this Act,[166] that are canceled or suspended under this subsection to the extent such moneys have previously been disbursed to private contractors and United States Government agencies for work in progress, and (B) to pay such damages and costs that accrue from the corresponding cancellation or suspension of the existing procurement contracts or United States Government agency work orders involved.

(f)[167] The President shall, to the maximum extent possible and consistent with the purposes of this Act, use civilian contract personnel in any foreign country to perform defense services sold under this Act.

Sec. 43.[168] **Administrative Expenses.**—(a) Funds made available under other law for the operations of United States Government agencies carrying out functions under this Act shall be available for the administrative expenses incurred by such agencies under this Act.

(b)[169] Charges for administrative services calculated under section 21(e)(1)(A) of this Act shall include recovery of administrative expenses and official reception and representation expenses[170] incurred by any department or agency of the United States Government, including any mission or group thereof, in carrying out functions under this Act when—

(1) such functions are primarily for the benefit of any foreign country; and

(2) such expenses are not directly and fully charged to, and reimbursed from amounts received for, sale of defense services under section 21(a) of this Act.

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[165] Subsec. (e) was added by sec. 213 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 745).

[166] The reference to sec. 27(d) was added by sec. 115(b)(3) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 210).

[167] Subsec. (f) was added by sec. 605(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 768).

[168] 22 U.S.C. 2792.

[169] Subsec. (b), which was added by sec. 214 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 746), was amended and restated by sec. 7(d) of the International Security Assistance Act of 1977 (Public Law 95-92, 91 Stat. 617).

[170] The reference to reception and representation expenses was added by sec. 120(1) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 204).

(c)[171] Not more than $72,500 of the funds derived from charges for administrative services pursuant to section 21(e)(1)(A) of this Act may be used each fiscal year for official reception and representation expenses.

Sec. 44.[172] **Statutory Construction.**—No provision of this Act shall be construed as modifying in any way the provisions of the Atomic Energy Act of 1954, as amended, or section 7307 of title 10 of the United States Code.

Sec. 45. Statutes Repealed and Amended.—(a) Sections 521, 522, 523, 524(b)(3), 525, 634(g), and 640 of the Foreign Assistance Act of 1961, as amended, are hereby repealed.

(b) Part III of the Foreign Assistance Act of 1961, as amended, is amended as follows:

(1) Section 622(b) is amended by striking out "or sales".

(2) Section 622(c) is amended by striking out "and sales" and "or sales".

(3) Section 632(d) is amended by striking out "sections 506, 522, and 523," in the first sentence and inserting in lieu thereof "section 506".

(4) Section 634(d) is amended by inserting "or any other" between "under this" and "Act" in the fourth sentence.

(5) Section 644(m) is amended by striking out "and sales" in the first sentence of the paragraph following numbered paragraph (3).

(c) References in law to the provisions of law repealed by subsection (a) of this section shall hereafter be deemed to be references to this Act or appropriate provisions of this Act. Except for the laws specified in section 44, no other provision of law shall be deemed to apply to this Act unless it refers specifically to this Act or refers generally to sales of defense articles and defense services under any Act.

Sec. 46.[173] **Savings Provisions.**—Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provisions of law repealed by section 45(a) shall continue in full force and effect until modified by appropriate authority.

Sec. 47.[174] **Definitions.**—For purposes of this Act, the term—

(1) "excess defense article" has the meaning provided by section 644(g) of the Foreign Assistance Act of 1961;

(2) "value" means, in the case of an excess defense article, except as otherwise provided in sec. 21(a),[175] not less than the greater of—

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[171] Subsec. (c), which was added by sec. 19(b) of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 709), was repealed by sec. 734(a)(10) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The information previously contained in the annual report required by subsec. (c) is now required by sec. 25(a)(6) of this Act. Subsequently, a new subsec. (c) was added by sec. 120(2) of Public Law 99-83 (99 Stat. 204).

[172] 22 U.S.C. 2793.

[173] 22 U.S.C. 2341 note.

[174] 22 U.S.C. 2794 note. Sec. 47 was added by sec. 25(12) of the FA Act of 1973.

[175] This reference to sec. 21(a) was added by sec. 102(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat 197).

(A) the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such article, plus the scrap value; or

(B) the market value, if ascertainable;

(3) [176] "defense article", except as provided in paragraph (7) of this section, includes—

(A) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war,

(B) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of making military sales,

(C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, and

(D) any component or part of any article listed in this paragraph,

but does not include merchant vessels or (as defined by the Atomic Energy Act of 1954) source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity),[177] byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data;

(4) [176] "defense service", except as provided in paragraph (7) of this section, includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information (as defined in section 644(e) of the Foreign Assistance Act of 1961) used for the purposes of making military sales, but does not include design and construction services under section 29 of this Act;[178]

(5) [176] "training" includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces;

(6) [176] "major defense equipment" means any item of significant military [179] equipment on the United States Munitions List having a nonrecurring research and development cost of more than $50,000,000 or a total production cost of more than $200,000,000;

(7) [176] "defense articles and defense services" means, with respect to commercial exports subject to the provisions of section 38

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[176] Sec. 215 of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 746) added pars. (3), (4), (5), (6), and (7).

[177] The parenthetical phrase was added by sec. 22 of the International Security Assistance Act of 1979 (Public Law 96-92, 93 Stat. 710). See also sec. 110 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3138), page 423.

[178] The words, "but does not include design and construction services under section 29 of this Act" were added by sec. 105(f) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3135).

[179] Sec. 1211 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 279) substituted the word "military" in lieu of "combat".

of this Act, those items designated by the President pursuant to subsection (a)(1) of such section; and

(8) [180] "design and construction services" means, with respect to sales under section 29 of this Act, the design and construction of real property facilities, including necessary construction equipment and materials, engineering services, construction contract management services relating thereto, and technical advisory assistance in the operation and maintenance of real property facilities provided or performed by any department or agency of the Department of Defense or by a contractor pursuant to a contract with such department or agency.

Chapter 5—SPECIAL DEFENSE ACQUISITION FUND [181]

Sec. 51.[182] Special Defense Acquisition Fund.—(a)(1) Under the direction of the President and in consultation with the Secretary of State, the Secretary of Defense shall establish a Special Defense Acquisition Fund (hereafter in this chapter referred to as the "Fund"), to be used as a revolving fund separate from other accounts, under the control of the Department of Defense, to finance the acquisition of defense articles and defense service in anticipation of their transfer pursuant to this Act, the Foreign Assistance Act of 1961, or as otherwise authorized by law, to eligible foreign countries and international organizations, and may acquire such articles and services with the funds in the Fund as he may determine. Acquisition under this chapter of items for which the initial issue quantity requirements for United States Armed Forces have not been fulfilled and are not under current procurement contract shall be emphasized when compatible with security assistance requirements for the transfer of such items.

(2) Nothing in this chapter may be construed to limit or impair any responsibilities conferred upon the Secretary of State or the Secretary of Defense under this Act or the Foreign Assistance Act of 1961.

(3) [183] The Fund may be used to keep on continuous order such defense articles and defense services as are assigned by the Department of Defense for integrated management by a single agency thereof for the common use of all military departments in anticipation of the transfer of similar defense articles and defense services to foreign countries and international organizations pursuant to this Act, the Foreign Assistance Act of 1986, or other law.

(b) [183] The Fund shall consist of—

(1) collections from sales made under letters of offer issued pursuant to section 21(a)(1)(A) of this Act representing the actual value of defense articles not intended to be replaced in stock,

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[180] Paragraph (8) was added by sec. 105(f) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3135).

[181] Chapter 5 was added by sec. 108(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1522).

[182] 22 U.S.C. 2795.

[183] Sec. 121 (a) and (b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 204), added 51(a)(3) and amended sec. 51(b).

Sec. 114(c) of title 10 U.S.C., limited the size of the Special Defense Acquisition Fund to $1,070,000,000.

(2) collections from sales representing the value of asset use charges (including contractor rental payments for United States Government-owned plant and production equipment) and charges for the proportionate recoupment of nonrecurring research, development, and production costs, and

(3) collections from sales made under letters of offer (or transfers made under the Foreign Assistance Act of 1961) of defense articles and defense services acquired under this chapter, representing the value of such items calculated in accordance with subparagraph (B) or (C) of section 21(a)(1) or section 22 of this Act or section 644(m) of the Foreign Assistance Act of 1961, as appropriate,

together with such funds as may be authorized and appropriated or otherwise made available for the purposes of the Fund.

(c)(1) The size of the Fund may not exceed such dollar amount as is prescribed in section 114(c) of title 10, United States Code.[184] For purposes of this limitation, the size of the Fund is the amounts in the Fund plus the value (in terms of acquisition cost) of the defense articles acquired under this chapter which have not been transferred from the Fund in accordance with this chapter.

(2) Amounts in the Fund shall be available for obligation in any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.[185]

Sec. 52.[186] Use and Transfer of Items Procured by the Fund.—(a) No defense article or defense service acquired by the Secretary of Defense under this chapter may be transferred to any foreign country or international organization unless such transfer is authorized by this Act, the Foreign Assistance Act of 1961, or other law.

(b) The President may authorize the temporary use by the United States Armed Forces of defense articles and defense services acquired under this chapter prior to their transfer to a foreign country or international organization, if such is necessary to meet national defense requirements and the United States Armed Forces bear the costs of operation and maintenance of such articles or services while in their use and the costs of restoration or replacement upon the termination of such use.

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[184] Sec. 114(c) of title 10, U.S.C., was originally codified at sec. 138(g) of title 10, U.S.C.. Sec. 138(g) of title 10, U.S.C., as added by sec. 109(b) of Public Law 97-113 (95 Stat. 1524) and amended by sec. 1103 of the DOD Authorization Act, 1983, (Public Law 97-252, 96 Stat. 738), provided that the Special Defense Acquisition Fund "may not exceed $300,000,000 in fiscal year 1982, may not exceed $600,000,000 in fiscal year 1983, and may not exceed $900,000,000 in fiscal year 1984 or any fiscal year thereafter." The DOD Authorization Act, 1986, sec. 1403, (Public Law 99-145, 99 Stat. 743) changed the amount of the program ceiling to $1,000,000,000. Sec. 1304(a) of the DOD Authorization Act, 1987, (Public Law 99-661, 100 Stat. 3816) increased the ceiling to $1,070,000,000. Public Law 99-433, the DOD Reorganization Act of 1986, redesignated sec. 138(g) of title 10 as sec. 114(c).

[185] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268), provided the following for the "Special Defense Acquisition Fund (Limitation on Obligations)":

"Not to exceed $236,865,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1989, to remain available for obligation until September 30, 1991: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act."

Amounts provided for the Fund in recent years are as follows: fiscal year 1982—$125,000,000; fiscal year 1983—$125,000,000; fiscal year 1984—$225,000,000; fiscal year 1985—$325,000,000; fiscal year 1986—$325,000,000; fiscal year 1988—$236,835,000.

[186] 22 U.S.C. 2795a.

(c) Except as provided in subsection (b) of this section, the Fund may be used to pay for storage, maintenance, and other costs related to the preservation and preparation for transfer of defense articles and defense services acquired under this chapter prior to their transfer, as well as the administrative costs of the Department of Defense incurred in the acquisition of such items to the extent not reimbursed pursuant to section 43(b) of this Act.

Sec. 53.[187] **Annual Reports to Congress.**—(a) Not later than December 31 of each year, the President shall submit to the Congress a comprehensive report on acquisitions of defense articles and defense services under this chapter. Each such report shall include—

(1) a description of each contract for the acquisition of defense articles or defense services under this chapter which was entered into during the preceding fiscal year;

(2) a description of each contract for the acquisition of defense articles or defense services under this chapter which the President anticipates will be entered into during the current fiscal year;

(3) a description of each defense article or defense service acquired under this chapter which was transferred to a foreign country or international organization during the preceding fiscal year; and

(4) an evaluation of the impact of the utilization of the authority of this chapter on United States defense production and the readiness of the United States Armed Forces.

(b) As part of the annual written report to the Congress required by section 2431(a) of title 10, United States Code, regarding procurement schedules for each weapon system for which funding authorization is required, the President shall provide a report estimating the likely procurements to be made through the Fund.

Chapter 6—LEASES OF DEFENSE ARTICLES AND LOAN AUTHORITY FOR COOPERATIVE RESEARCH AND DEVELOPMENT PURPOSES [188]

Sec. 61.[189] **Leasing Authority.**—(a) The President may lease defense articles in the stocks of the Department of Defense to an eligible foreign country or international organization if—

(1) he determines that there are compelling foreign policy and national security reasons for providing such articles on a lease basis rather than on a sales basis under this Act;

(2) he determines that the articles are not for the time needed for public use; and

(3) the country or international organization has agreed to pay in United States dollars all costs incurred by the United States Government in leasing such articles, including reimbursement for depreciation of such articles while leased, the

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[187] 22 U.S.C. 2795b.

[188] Chapter 6 was added by sec. 109(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1524). Sec. 1003(b) of Public Law 100-456 revised the title of chapter 6. It formerly read "Leases of Defense Articles".

[189] 22 U.S.C. 2796.

costs of restoration or replacement if the articles are damaged while leased, and the replacement cost (less any depreciation in the value) of the articles if the articles are lost or destroyed while leased.

The requirement of paragraph (3) shall not apply to leases entered into for purposes of cooperative research or development, military exercises, or communications or electronics interface projects, or to any defense article which has passed three-quarters of its normal service life.

[190] The President may waive the requirement of paragraph (3) with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense, except that this waiver authority—

(A) may be exercised only if the President submits to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, in accordance with the regular notification procedures of those Committees, a detailed notification for each lease with respect to which the authority is exercised; and

(B) may be exercised only during the fiscal year 1989 [191] and only with respect to one country, unless the Congress hereafter provides otherwise.

The preceding sentence does not constitute authorization of appropriations for payments by the United States for leased articles.

(b) Each lease agreement under this section shall be for a fixed duration of not to exceed five years and shall provide that, at any time during the duration of the lease, the President may terminate the lease and require the immediate return of the leased articles.

(c) Defense articles in the stocks of the Department of Defense may be leased or loaned to a foreign country or international organization only under the authority of this chapter or chapter 2 of part II of the Foreign Assistance Act of 1961, and may not be leased to a foreign country or international organization under the authority of section 2667 of title 10, United States Code.

Sec. 62.[192] **Reports to the Congress.**—(a) Not less than 30 days before entering into or renewing any agreement with a foreign country or international organization to lease any defense article under this chapter, or to loan any defense article under chapter 2 of part II of the Foreign Assistance Act of 1961, for a period of one year or longer, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Armed Services of the Senate, a written certification which specifies—

(1) the country or international organization to which the defense article is to be leased or loaned;

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[190] The words from this point to the end of subsec. (a) were added by sec. 147 of the Continuing Appropriations Act for Fiscal Year 1987 (Public Law 99-591, 100 Stat. 3341-354).

[191] The year "1989" was substituted in lieu of "1988" by sec. 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268-35).

[192] 22 U.S.C. 2796a.

(2) the type, quantity, and value (in terms of replacement cost) of the defense article to be leased or loaned;

(3) the terms and duration of the lease or loan; and

(4) a justification for the lease or loan, including an explanation of why the defense article is being leased or loaned rather than sold under this Act.

(b) The President may waive the requirements of this section (and in the case of an agreement described in section 63, may waive the provisions of that section) if he determines, and immediately reports to the Congress, that an emergency exists which requires that the lease or loan be entered into immediately in the national security interests of the United States.

Sec. 63.[193] **Legislative Review.**—(a)(1) In the case of any agreement involving the lease under this chapter, or the loan under chapter 2 of part II of the Foreign Assistance Act of 1961, to any foreign country or international organization for a period of one year or longer of any defense articles which are either (i) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at $14,000,000 or more, or (ii) defense articles valued (in terms of their replacement cost less any depreciation in their value) at $50,000,000 or more, the agreement may not be entered into or renewed if the Congress, within 30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a), enacts a joint [194] resolution prohibiting the proposed lease or loan.

(2) This section shall not apply with respect to a loan or lease to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.

(b) Any joint [194] resolution under subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(c) For the purpose of expediting the consideration and enactment of joint [194] resolutions under subsection (a), a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

Sec. 64.[195] **Application of Other Provisions of Law.**—Any reference to sales of defense articles under this Act in any provision of law restricting the countries or organizations to which such sales may be made shall be deemed to include a reference to leases of defense articles under this chapter.

Sec. 65.[196] **Loan of Materials, Supplies, and Equipment for Research and Development Purposes.**—(a)(1) Except as provided in subsection (c), the Secretary of Defense may loan to a country that is a NATO or major non-NATO ally materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary may accept as a loan or a gift from a country that is a NATO or major non-NATO ally materials, supplies, or equipment for such purpose.

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[193] 22 U.S.C. 2796b.

[194] Sec. (d) of Public Law 99-247, 100 Stat. 9, struck out "concurrent" and inserted "joint".

[195] 22 U.S.C. 2796c.

[196] 22 U.S.C. 2796d. Sec. 1003(a) of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100–456, 102 Stat. 2038) added sec. 65.

(2) Each loan or gift transaction entered into by the Secretary under this section shall be provided for under the terms of a written agreement between the Secretary and the country concerned.

(3) A program of testing or evaluation for which the Secretary may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the country to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

(b) The materials, supplies, or equipment loaned to a country under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursement of the United States if the Secretary—

(1) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the country; and

(2) approves of the expenditure or consumption of such materials, supplies, or equipment.

(c) The Secretary of Defense may not loan to a country under this section any material if the material is a strategic and critical material and if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) is less than the quantity of such material to be stockpiled, as determined by the President under section 3(a) of such Act.

(d) For purposes of this section, the term "NATO or major non-NATO ally" means a member country of the North Atlantic Treaty Organization (other than the United States) or a foreign country other than a member nation of NATO designated as a major non-NATO ally under section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a).

c. Bangladesh Disaster Assistance Act of 1988

Public Law 100–576 [H.R. 5389], 102 Stat. 2897, approved October 31, 1988

AN ACT Concerning disaster assistance for Bangladesh.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Bangladesh Disaster Assistance Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) as a result of the 1988 floods, two-thirds of Bangladesh has been inundated with flood waters;

(2) over 30 million people in Bangladesh are homeless, over 2000 dead, tens of thousands ill, and potentially millions at risk of waterborne disease and epidemic because of lack of safe water and overcrowding;

(3) transportation, communications, and normal commerce in Bangladesh have been seriously interrupted, with a potential cost of replacing destroyed or damaged infrastructure of $500,000,000;

(4) agricultural lands have been flooded, with a potential crop loss of nearly $1,000,000,000;

(5) the people of the United States have respected and generously supported the efforts of the people of Bangladesh to maintain their independence, promote equitable economic growth, and strive for political pluralism and greater democracy; and

(6) the Government of Bangladesh has taken quick action to cope with this disaster, one of the most serious in the history of Bangladesh, but must rely on a generous response from the international community for emergency assistance and, even more importantly, for the expertise and resources needed to prevent the continual recurrence of such disastrous floods.

SEC. 3. COMMENDATION OF AND SUPPORT FOR THE PEOPLE OF BANGLADESH.

The Congress—

(1) commends the courage and resourcefulness demonstrated by the people of Bangladesh in response to the 1988 floods;

(2) commends the President for the generous provision by the United States of emergency assistance for Bangladesh;

(3) commends United States private and voluntary organizations, international organizations, foreign governments, and

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[1] 7 U.S.C. 1691 note.

others for their compassionate response to this natural disaster;

(4) expresses its support for the people of Bangladesh at this most critical time;

(5) declares its willingness to work with the President to provide generous levels of emergency humanitarian assistance to the people of Bangladesh;

(6) declares its willingness to work with the Government of Bangladesh and with private and voluntary organizations to ensure that emergency assistance quickly reaches those most in need; and

(7) declares its willingness to work with the international community to seek the means to prevent a recurrence of such natural disasters, and urges the President to promote a regional solution designed to prevent a recurrence of such natural disasters.

SEC. 4. EMERGENCY ASSISTANCE FOR BANGLADESH.

(a) USE OF FOOD FOR DEVELOPMENT LOCAL CURRENCIES FOR DISASTER ASSISTANCE.—(1) Section 301 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end the following:

"(c) In the event of a serious natural disaster in a country participating in a Food for Development Program, funds accruing from the sale of commodities made available under this title may be used, with the approval of the United States Government, for disaster relief, rehabilitation, and reconstruction assistance in any rural or urban area of that country adversely affected by the disaster. Such assistance may include (but is not limited to) food, medicine and medical supplies, shelter, and in-country transportation.".

(2)[2] Food for Development agreements entered into under title III of that Act before the date of enactment of this Act may be amended in order to implement the amendment made by paragraph (1).

(3) Pending amendment pursuant to paragraph (2) Food for Development agreements with the Government of Bangladesh, the use of funds accruing under those agreements, with the approval of the United States Government, for flood-related disaster assistance authorized by the amendment made by paragraph (1) shall be deemed to be consistent with the applicable agreement.

(b) ADDITIONAL FUNDS FOR DISASTER ASSISTANCE FOR BANGLADESH.—It is the sense of the Congress that, in order to provide additional resources for disaster assistance for the victims of the 1988 floods in Bangladesh, not less than $100,000,000 of the local currencies generated under Food for Development agreements with the Government of Bangladesh should be used for the disaster relief, rehabilitation, and reconstruction assistance purposes authorized by the amendment made by subsection (a)(1).

(c) REGULAR ASSISTANCE PROGRAMS TO BE MAINTAINED.—Disaster assistance provided for Bangladesh by the United States because of the 1988 floods should be in addition to the regularly programmed assistance for that country for fiscal year 1989 under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and titles I, II, and III of the Agriculture Trade Development and Assistance Act of 1954 (relating to food assistance); and the level of such regularly programmed assistance.

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[2] 7 U.S.C. 1727 note.

(d) EXTENSION OF PERIOD FOR USE OF FOOD FOR DEVELOPMENT LOCAL CURRENCIES.—It is the sense of the Congress that the period, during which funds accruing under Food for Development agreements with the Government of Bangladesh must be used, should be extended from September 30, 1989, to at least September 30, 1990.

SEC. 5. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Congress a report on efforts by the international community and the governments of the region to develop regional programs for the Ganges basin and the Brahmaputra basin that are designed—

(1) to ensure an equitable and predictable supply of water in the dry season; and

(2) to promote better flood control mechanisms to mitigate in the mid-term, and prevent in the long-term, floods as severe as the 1988 floods in Bangladesh.

(b) SPECIFIC REQUIREMENTS.—The report required by subsection (a)—

(1) shall describe what efforts have been made by international organizations and other international institutions, by bilateral and multilateral assistance donors, and by countries in the region, to achieve the objectives set forth in subsection (a);

(2) shall describe the feasibility studies, planning studies, or actual projects that are in preparation or have been completed to achieve those objectives;

(3) shall analyze the potential costs, the technology obstacles (such as those presented by the earthquakes to which the region is prone), and the political problems, that stand in the way of effective flood control in the Ganges basin and the Brahmaputra basin;

(4) shall describe the environmental causes of the flood, particularly deforestation and soil erosion; and

(5) shall describe the efforts made, and the efforts proposed to be made, by the President to promote a regional approach to achieving the objectives set forth in subsection (a).

SEC. 6. OFFICE OF TECHNOLOGY ASSESSMENT.

It is the sense of the Congress that the Office of Technology Assessment—

(1) should cooperate in the effort described in section 5; and

(2) in particular, should provide to the Department of State and the Congress—

(A) a synopsis of all current studies and reports—

(i) on flood control in the Ganges basin and the Brahmaputra basin, or

(ii) on state-of-the-art technology available for the construction and maintenance of flood control projects, and

(B) any cost benefit analysis of efforts to improve water availability in the dry season and to mitigate or prevent severe flooding.

d. Overseas Private Investment Corporation Amendments Act of 1988

Partial text of S. 2757, enacted into law by reference in sec. 555, Public Law 100-461 [H.R. 4637], 102 Stat. 2268-36, approved October 1, 1988 [1]

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SECTION 1. SHORT TITLE.

This Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1988".

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SEC. 109. SMALL AND MINORITY-OWNED BUSINESSES.

(a) FINDINGS.—The Congress finds that—

(1) the Overseas Private Investment Corporation has a consistent record of encouraging United States business investment in the world's developing countries;

(2) 62 percent of the open projects supported by the Corporation during fiscal year 1987 were located in the poorest of developing countries; and

(3) United States small businesses participated in 34 percent of the open projects supported by the Corporation during fiscal year 1987.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Overseas Private Investment Corporation should continue to encourage United States small businesses to invest in the world's developing countries; and

(2) the Corporation should continue to encourage United States small businesses that are minority-owned to invest in the world's developing countries as these businesses are well suited to the economic and social development needs of such countries.

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SEC. 111. OPIC PROGRAMS IN HAITI.

Prohibitions on United States assistance for Haiti during fiscal year 1988 shall not be construed to apply with respect to the Overseas Private Investment Corporation unless the prohibition specifically states that it applies with respect to the Overseas Private Investment Corporation.

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[1] Sec. 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268-36) enacted into law by reference title I of H.R. 5263, as passed by the House of Representatives on September 20, 1988, and provided further:

"That notwithstanding any other provision of this Act, titles I and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988, are hereby enacted into law".

Title I of H.R. 5263 and title I of S. 2757, in large part, amended chapter 2, title IV of the FA Act of 1961; for text see page 74. Sections 109 and 111, shown here, were freestanding provisions and were identical in both bills.

For text of title III of S. 2757 (concerning certain USIA programs), see vol. II, sec. E.

e. Notice to Congress of Certain Transfers of Defense Articles and Defense Services

Partial text of Public Law 99-569 [S. 2368], 100 Stat. 3190, approved November 14, 1986

AN ACT To authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1987".

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TITLE VI—MISCELLANEOUS

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Sec. 602. (a) Title V of the National Security Act of 1947, relating to accountability for intelligence activities, is amended by adding at the end thereof the following:

NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

Sec. 503. (a)(1) The transfer of a defense article or defense service exceeding $1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of section 501 of this Act.

(2) Paragraph (1) does not apply if—

(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

(B) the transfer—

(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961, the Arms Export Control Act, title 10 of the United States Code (including a law enacted pursuant to section 7307(b)(1) of that title), or the Federal Property and Administrative Services Act of 1949, and

(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

(b) As used in this section—

(1) the term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the terms "defense articles" and "defense services" mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act (22 CFR part 121);

(3) the term "transfer" means—

(A) in the case of defense articles, the transfer of possession of those articles; and

(B) in the case of defense services, the provision of those services; and

(4) the term 'value' means—

(A) in the case of defense articles, the greater of—

(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

(ii) the replacement cost; and

(B) in the case of defense services, the full cost to the Government of providing the services.

(b) * * *

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f. Special Foreign Assistance Act of 1986

Partial Text of Public Law 99-529 [S. 1917], 100 Stat. 3010, approved October 24, 1986

AN ACT To promote immunization and oral rehydration in developing countries, to promote democracy in Haiti, to protect tropical forests and biological diversity in developing countries, to authorize increased funding for the Child Survival Fund and for international narcotics control assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Special Foreign Assistance Act of 1986".

TITLE I—PROMOTING IMMUNIZATION AND ORAL REHYDRATION IN DEVELOPING COUNTRIES

SEC. 101. FINDINGS.

The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that 3.5 million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social, and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) at the 1984 "Bellagio Conference" it was determined that the goal of universal childhood immunization by 1990 is indeed achievable; and

(7) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program.

SEC. 102. UNITED STATES PARTICIPATION IN GLOBAL EFFORT.

(a) United States Government Support.—The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(1) assisting in the delivery, distribution, and use of vaccines, including—

(A) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 percent of their annually projected target population with the full schedule of required immunizations; and

(B) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(2) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(b) Private Sector Support.—In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

SEC. 103. * * *

TITLE II—PROMOTING DEMOCRACY IN HAITI

SEC. 201. FINDINGS CONCERNING HAITI.

The Congress finds that—

(1) the establishment of an interim government in Haiti committed to a restoration of democracy provides Haiti with an opportunity to build the political, social, and economic institutions necessary to promote Haiti's development, to provide a better future for the people of Haiti, and to provide the framework for more effective mutual cooperation with the United States, Haiti's neighbor in the Caribbean, and the other nations of the Hemisphere;

(2) the magnitude of the political, economic, and social tasks facing the people of Haiti will make the achievement of a better future a difficult task which will require a determined and sustained effort by the Haitian people over a long period of time and will require significant external assistance from the United States and other donors; and

(3) it is in the interest of the United States to provide appropriate support for the development of Haiti, a close neighbor which is one of the world's poorest nations and which is committed to the establishment of a democratic government.

SEC. 202. ECONOMIC ASSISTANCE FOR HAITI.

(a) Earmarking of Funds.—Not less than $108,000,000 of the aggregate amounts available for fiscal year 1987 to carry out sections 103 through 106 of the Foreign Assistance Act of 1961 (relating to development assistance), chapter 4 of part II of that Act (relating to the Economic Support Fund), and titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (relating to the Food for Peace Program) shall be available only for Haiti.

(b) Use of Development Assistance.—Assistance under sections 103 through 106 of the Foreign Assistance Act of 1961 which is provided for Haiti pursuant to subsection (a) shall be used to support a transition to democracy in Haiti, emphasizing foreign investment, job creation (especially in the private sector), rural development, health care and sanitation, small-scale irrigation, reforestation and land conservation, and literacy education. Such assistance should reflect the need to distribute development assistance resources more equitably among the various regions in Haiti in order to support sustainable development in all of Haiti.

(c) Requirement for Segregated Account for Economic Support Assistance Funds Paid to Government of Haiti.—Funds under chapter 4 of part II of the Foreign Assistance Act of 1961 which are made available for Haiti pursuant to subsection (a) may be paid to the Government of Haiti only if the Government of Haiti will maintain those funds in a separate account and not commingle them with other funds.

(d) Conditions on Economic Support and Development Assistance.—Funds may be obligated for assistance for Haiti under sections 103 through 106 of chapter 4 of part II of the Foreign Assistance Act of 1961 pursuant to subsection (a) only if the President determines that the interim Government of Haiti—

(1) is improving the human rights situation in Haiti;

(2) is implementing its timetable for completion of a new constitution that promotes genuine democratic reforms and guarantees the fundamental principles of democracy;

(3) is establishing a framework for free and open elections leading to a democratically-elected civilian government, which would include free and functioning political parties and associations, free labor unions, and freedom of the press;

(4) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years);

(5) is maintaining a system of fiscal accountability to ensure that all resources allocated to the development of Haiti are used in the most effective and efficient manner;

(6) is continuing its investigation of alleged human rights abuses and corruption by the Duvalier government and is prosecuting, in accordance with due process, those responsible for human rights abuses and corruption;

(7) is maintaining a free and independent judiciary system;

(8) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti; and

(9) is encouraging private sector development.

(e) * * *

(f) ADDITIONAL ASSISTANCE FOR ECONOMIC DEVELOPMENT IN HAITI.—In order to assist economic development in Haiti, a Foreign Commercial Service officer should be assigned to the United States Embassy in Haiti.

SEC. 203. MILITARY TRAINING AND OTHER NONLETHAL ASSISTANCE FOR HAITI.

(a) AUTHORIZATION OF ASSISTANCE.—Up to $4,000,000 of the aggregate amounts available for fiscal year 1987 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), chapter 5 of part II of that Act (relating to international military education and training), and the Arms Export Control Act (relating to FMS assistance) may be made available for Haiti for education, training, and other nonlethal assistance (such as transportation equipment, communications equipment, and uniforms).

(b) CONDITIONS ON MILITARY ASSISTANCE.—Funds made available pursuant to subsection (a) may be obligated only if the President certifies to the Congress the following:

(1) The Government of Haiti has submitted a formal request to the United States specifying a comprehensive plan for the reform and reorganization of the mission, command, and control structures of the Haitian armed forces consistent with a transition to democracy, the rule of law, constitutional government, and an elected civilian government. Such a plan should include a publicly announced commitment by the armed forces of Haiti to abide by international human rights standards and adoption of a code of conduct to assure adherence to these standards.

(2) The Government of Haiti is making substantial efforts—

(A) to prevent the involvement of the Haitian armed forces in human rights abuses and corruption by removing from those forces and prosecuting, in accordance with due process, those military personnel responsible for the human rights abuses and corruption;

(B) to ensure that freedom of speech and assembly are respected;

(C) to conduct investigations into the killings of unarmed civilians in Gonaives, Martissant, and Fort Dimanche, to prosecute, in accordance with due process, those responsible for those killings, and to prevent any similar occurrences in the future;

(D) to provide education and training to the Haitian armed forces with respect to internationally recognized human rights and the civil and political rights essential to democracy, in order to enable those forces to function consistent with those rights; and

(E) to take steps to implement the policy of the Government of Haiti requiring former members of the Volunteers for National Security (VSN) to turn in their weapons and to take the necessary actions to enforce this requirement.

(c) REPORTS.—Not later than three months after the President submits his certification under subsection (b) and every three months thereafter, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each of the objectives specified in subsection (b). Half of the assistance provided pursuant to subsection (a) shall be withheld from delivery until the President submits the first such report.

(d) NOTIFICATION TO CONGRESS.—Funds made available pursuant to subsection (a) may be obligated only if the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate are notified fifteen days in advance.

(e) RELATION TO EXISTING PROVISION.—Assistance under subsection (a) may be provided notwithstanding the limitations contained in section 705(e) of the International Security and Development Cooperation Act of 1985 and is in addition to the assistance allowed under that section.

SEC. 204. RECOVERY BY HAITI OF ASSETS STOLEN BY DUVALIER REGIME.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Haiti believes that former president-for-life Jean Claude Duvalier and other individuals associated with the Duvalier regime illegally diverted to their own use substantial amounts of the assets of the Government of Haiti:

(2) the Government of Haiti is attempting to locate and recover those assets through legal means;

(3) virtually every relevant jurisdiction, both in the United States and abroad, requires the posting of some form of security to secure the issuance of orders of attachment or other judicial seizures of property;

(4) the Government of Haiti is unable, without outside assistance, to post the necessary security because of its lack of assets;

(5) Haiti's economic situation could be significantly improved, and the need for external resources reduced, if the Government of Haiti is able to pursue its legal remedies against those who are in large part responsible for the economic crisis in Haiti; and

(6) the United States has a substantial foreign policy interest in helping the Government of Haiti recover any assets which were illegally diverted by those associated with the Duvalier regime.

(b) ACTIONS TO ASSIST HAITI.—The President shall exercise the authorities granted by section 203 of the International Emergency Economic Powers Act (50 U.S.C. App. 1702) to assist the Government of Haiti in its efforts to recover, through legal proceedings, assets which the Government of Haiti alleges were stolen by former president-for-life Jean Claude Duvalier and other individuals associated with the Duvalier regime. This subsection shall be deemed to satisfy the requirements of section 202 of that Act.

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g. Anglo-Irish Agreement Support Act of 1986

Partial Text of Public Law 99–415 [H.R. 4329], 100 Stat. 947, approved September 19, 1986

AN ACT To authorize United States contributions to the International Fund established pursuant to the November 15, 1985, agreement between the United Kingdom and Ireland, as well as other assistance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anglo-Irish Agreement Support Act of 1986".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that the Anglo-Irish Agreement is a clear demonstration of the determination of the Government of the United Kingdom and the Government of Ireland to make progress concerning the complex situation in Northern Ireland. The Congress strongly supports the Anglo-Irish Agreement and is particularly encouraged that these two neighboring countries, longstanding friends of the United States, have joined together to rebuild a land that has too often been the scene of economic hardship and where many have suffered severely from the consequences of violence in recent years. In recognition of our ties of kinship, history, and commitment to democratic values, the Congress believes the United Stats should participate in this renewed commitment to social and economic progress in Northern Ireland and affected areas of Ireland.

(b) PURPOSES.—It is, therefore, the purpose of the Act to provide for United States contributions in support of the Anglo-Irish Agreement, such contributions to consist of economic support fund assistance for payment to the International Fund established pursuant to the Anglo-Irish Agreement, as well as other assistance to serve as an incentive for economic development and reconciliation in Ireland and Northern Ireland. The purpose of these United States contributions shall be to support the Anglo-Irish Agreement in promoting reconciliation in Northern Ireland and the establishment of a society in Northern Ireland in which all may live in peace, free from discrimination, terrorism, and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government.

SEC. 3. UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FUND.

(a) FISCAL YEAR 1986.—Of the amounts made available for the fiscal year 1986 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), $50,000,000 shall be used for United States contributions to the International Fund. Pending the formal establishment of the International Fund and submission of the certification required by section 5(c) of this Act, these funds may, pursuant to an agreement with the Government of the United Kingdom and the Government of Ireland, be disbursed into and maintained in a separate account.

(b) FISCAL YEARS 1987 AND 1988.—Of the amounts made available for each of the fiscal years 1987 and 1988 to carry out this chapter, $35,000,000 shall be used for United States contributions to the International Fund; and that amount is hereby authorized to be appropriated for each of those fiscal years to carry out that chapter (in addition to amounts otherwise authorized to be appropriated). Amounts appropriated pursuant to this subsection are authorized to remain available until expended.

SEC. 4. OTHER ASSISTANCE.

(a) AVAILABLE AUTHORITIES.—In addition to other available authorities, the following authorities may be used to provide assistance or other support to carry out the purposes of section 2 of this Act:

(1) Section 108 of the Foreign Assistance Act of 1981 (relating to the Private Sector Revolving Fund).

(2) Section 221 through 223 of that Act (relating to the Housing Guaranty Program).

(3) Title IV of chapter 2 of part I of that Act (relating to the Overseas Private Investment Corporation), without regard to the limitation contained in paragraph (2) of the second undesignated paragraph of section 231 of that Act.

(4) Section 661 of that Act (relating to the Trade and Development Program).

(b) OTHER LAWS.—Assistance under this Act may be provided without regard to any other provision of law.

SEC. 5. CONDITIONS AND UNDERSTANDINGS RELATING TO THE UNITED STATES CONTRIBUTIONS.

(a) PROMOTING ECONOMIC AND SOCIAL RECONSTRUCTION AND DEVELOPMENT.—The United States contributions provided for in this Act may be used only to support and promote economic and social reconstruction and development in Ireland and Northern Ireland. The restrictions contained in sections 531(e) and 660(a) of the Foreign Assistance Act of 1961 apply with respect to any such contributions.

(b) UNITED STATES REPRESENTATION ON THE BOARD OF THE FUND.—The President shall make every effort, in consultation with the Government of the United Kingdom and the Government of Ireland, to ensure that there is United States representation on the Board of the International Fund.

(c)[1] PRIOR CERTIFICATIONS.—Each fiscal year, the United States may make contributions to the International Fund only if the President certifies to the Congress that he is satisfied that—

(1) the Board of the International Fund, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and

(2) disbursements from the International Fund—

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[1] The conditions contained in subsec. (c) were certified by the President in Presidential Determination No. 88-21 of August 1, 1988; 53 F.R. 30825.

(A) will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and

(B) will address the needs of both communities in Northern Ireland.

Each such certification shall include a detailed explanation of the basis for the President's decision.

SEC. 6. ANNUAL REPORTS.

At the end of each fiscal year in which the United States Government makes any contribution to the International Fund, the Presidential shall report to the Congress on the degree to which—

(1) the International Fund has contributed to reconciliation between the communities in Northern Ireland;

(2) the United States contribution to the International Fund is meeting its objectives of encouraging new investment, job creation, and economic reconstruction on the basis of strict equality of opportunity; and

(3) the International Fund has increased respect for the human rights and fundamental freedoms of all people in Northern Ireland.

SEC. 7. REQUIREMENTS RELATING TO FUNDS FOR "INTERNATIONAL ORGANIZATION AND CONFERENCES".

(a) DISBURSEMENTS, AUDITS, AND REPORTS.—The provisions relating to disbursements on vouchers, audits, and submission of reports with respect to expenditures pursuant to the Joint Resolution of July 11, 1956 (Public Law 689), shall also apply with respect to expenditures pursuant to section 109(c) of the Act of November 22, 1983 (Public Law 98-164).

(b) * * *

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "Anglo-Irish Agreement" means the Agreement Between the Government of Ireland and the Government of the United Kingdom dated November 15, 1985; and

(2) the term "International Fund" means the international fund for economic development projects in Northern Ireland and Ireland, established pursuant to Article 10 of the Anglo-Irish Agreement.

h. International Security and Development Cooperation Act of 1985

Partial text of Public Law 99-83 [S. 960], 99 Stat. 190, approved August 8, 1985 as amended by Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 99-570 [Anti-Drug Abuse Act of 1986, H.R. 5484], 100 Stat. 3207, approved October 27, 1986; Public Law 99-591 [Continuing Appropriations Act, 1987, H.J. Res. 738], 100 Stat. 3341, approved October 30, 1986; and by Public Law 100-202 [Continuing Appropriations Act, 1988, H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987

NOTE.—Except for the provisions noted below, the International Security and Development Cooperation Act of 1985 consists of amendments to the Foreign Assistance Act of 1961, the Arms Export Control Act, the Peace Corps Act, Public Law 480, and to several former foreign aid annual authorization acts. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize international development and security assistance programs and Peace Corps programs for fiscal years 1986 and 1987, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Security and Development Cooperation Act of 1985".

* * * * * * *

TITLE I—MILITARY ASSISTANCE AND SALES AND RELATED PROGRAMS

SEC. 101. FOREIGN MILITARY SALES CREDITS.

(a) * * *

(b) * * *

(c) FMS FINANCING FOR ISRAEL.—(1) Of the total amount of credits extended under section 23 of the Arms Export Control Act, not less than $1,800,000,000 for fiscal year 1986[1] and not less than

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[1] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of the Further Continuing Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1301), provided that "not less than $1,800,000,000 shall be available only for Israel." The act further provided that: if the Government of Israel requests that funds be used for such purposes, up to $150,000,000 of the amount of credits made available for Israel pursuant to this paragraph shall be available for research and development in the United States for the Lavi program, and not less than $300,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program and other activities if requested by Israel . . .".

$1,800,000,000 for fiscal year 1987 [2] shall be available only for Israel.

(2) Israel shall be released from its contractual liability to repay the United States Government with respect to the credits provided pursuant to paragraph (1).

(3) If the Government of Israel requests that funds be used for such purposes—

(A) up to $150,000,000 of the amount of credits made available for Israel pursuant to paragraph (1) for each of the fiscal years 1986 and 1987 shall be available for research and development in the United States for the Lavi [1] program, and

(B) not less than $250,000,000 of the amount of credits made available for Israel pursuant to paragraph (1) for each of the fiscal years 1986 and 1987 shall be available for the procurement in Israel of defense articles and defense services (including research and development) for the Lavi [1] program.

(d) FMS FINANCING FOR EGYPT.—(1) Of the total amount of credits extended under section 23 of the Arms Export Control Act, not less than $1,300,000,000 for fiscal year 1986 [3] and not less than $1,300,000,000 for fiscal year 1987 shall be available only for Egypt.

(2) Egypt shall be released from its contractual liability to repay the United States Government with respect to the credits extended pursuant to paragraph (1).

(e) FMS FINANCING FOR GREECE.—(1) Of the total amount of credits extended under section 23 of the Arms Export Control Act, $500,000,000 for each of the fiscal years 1986 [4] and 1987 shall be available only for Greece.

(2) For each of the fiscal years 1986 and 1987, of the total amount of credits extended for Greece under section 23 of the Arms Export Control Act, Greece shall receive the same proportion of credits extended at concessional rates of interest as the proportion of credits extended at concessional rates of interest which Turkey receives out of the total amount of credits extended for Turkey under that section, and the average annual rate of interest on the credits extended for Greece at concessional rates of interest shall be comparable to the average annual rate of interest on the credits extended for Turkey at concessional rates of interest. Credits extended for Greece for each of the fiscal years 1986 and 1987 at concessional rates of interest shall not be counted toward any ceiling established by law on concessional financing under the Arms Export Control Act.

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[2] The Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of the Continuing Appropriations Act, 1987, Public Law 99-591, 100 Stat. 3341-224), contained language identical to that cited in footnote number one and provided further:

"That funds for the Lavi program shall be expended upon the Department of Defense's determination that the proposed contracts meet application technical standards: *Provided further,* That during fiscal year 1987, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $4,040,441,284: *Provided further,* That any funds made available by this paragraph, other than funds made available for Israel and Egypt, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act:

[3] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99-190, 99 Stat. 1302), provided an appropriation of $1,300,000,000 for Egypt, as did title III of the 1987 version of the Act (Public Law 99-591, 100 Stat. 3341-224).

[4] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99-190, 99 Stat. 1302), provided $450,000,000 for Greece; the 1987 version of the Act (Public Law 99-591, 100 Stat. 3341-225) appropriated $343,000,000 for Greece.

(f) FMS FINANCING AND MAP FOR TURKEY.—For each of the fiscal years 1986 [5] and 1987, the aggregate total of financing under the Arms Export Control Act and assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 provided for Turkey may not exceed $714,280,000. Of this amount, up to $215,000,000 may be used for assistance under chapter 2 of part II of the Foreign Assistance Act of 1961, with the understanding that the United States Government is acting with urgency and determination to oppose any actions aimed at effecting a permanent bifurcation of Cyprus.

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SEC. 106. GUARANTY RESERVE FUND.

(a) REPORT ON REPLENISHMENT.—For the purpose of providing recommendations for improving the security interests of the United States and the friends and allies of the United States, the President shall prepare and transmit to the Congress within 90 days after the date of enactment of this Act a report which sets forth the history of United States foreign military sales financing under the Foreign Assistance Act of 1961 and the Arms Export Control Act. Such report shall include recommendations on replenishing the Guaranty Reserve Fund under section 24 of the Arms Export Control Act and recommendations on other matters agreed to in consultation with the chairman and ranking minority member of the Committee on Foreign Relations of the Senate and of the Committee on Foreign Affairs of the House of Representatives.

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SEC. 129. [6] CONVENTIONAL ARMS TRANSFERS.

(a) NEGOTIATIONS.—At the earliest possible date, the President should, in consultation with United States allies, initiate discussions with the Soviet Union and France aimed at beginning multilateral negotiations to limit and control the transfer of conventional arms to less developed countries.

(b) REPORT.—Within one year after the date of enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report which specifies steps being taken to fulfill the requirements of subsection (a) and which examines and analyzes United States policies concerning the export of conventional arms, especially sophisticated weapons, and possible approaches to developing multilateral limitations on conventional arms sales. This report shall examine and analyze—

(1) the lessons of earlier efforts to negotiate restraints on the export of conventional arms;

(2) the evolution of supplier practices and policies;

(3) the evolution of recipient country attitudes regarding conventional arms transfers;

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[5] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99-190, 99 Stat. 1302), provided Foreign Military Sales appropriation of $427,852,000 for Turkey; the 1987 version of the Act (Public Law 99-591, 100 Stat. 3341-225) appropriated $490,000 for Turkey.

[6] 22 U.S.C. 2751 note.

(4) the effect upon regional stability and security of conventional arms transfer by the United States and its allies and the Soviet Union and its allies;

(5) the relationship between arms imports and the external debt of recipient countries, the allocation of their internal resources, and their economic well-being;

(6) the relationship between arms exports by Western European countries and the needs of those countries to support their domestic military procurement programs;

(7) the prospects for engaging the Soviet Union in serious discussions concerning arms transfers, both globally and as they relate to regional security problems;

(8) possible measures by the United States and Western European suppliers to control levels of sophisticated weapons sales, both regionally and globally; and

(9) the timing and phasing of international conventional arms control negotiations.

SEC. 130.[7] FOREIGN MILITARY SALES FOR JORDAN.

(a) MIDDLE EAST PEACE.—The foreign military sales financing authorized by this Act for Jordan is provided and increased in the recognition of progress Jordan has made in the search for a just and lasting peace in the Middle East, to encourage further progress, in recognition of the continuing defense needs of Jordan, and in the expectation that Jordan will enter into direct negotiations with Israel based on United Nations Security Council Resolutions 242 and 338 in order to resolve the state of war between those two countries.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that no foreign military sales financing authorized by this Act may be used to finance the procurement by Jordan of United States advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems, and no notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons systems, unless Jordan is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

(c) CERTIFICATION.—Any notification made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons, shall be accompanied by a Presidential certification of Jordan's public commitment to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

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[7] Sec. 545 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99-190, 99 Stat. 1311), substantively contained the same provisions as this section.

SEC. 131. CERTIFICATION CONCERNING AWACS SOLD TO SAUDI ARABIA.

(a) THE PRESIDENT'S 1981 AWACS COMMUNICATION TO THE SENATE.—(1) The Congress finds that in his October 28, 1981, communication to the Senate concerning the proposed sale of AWACS aircraft and F15 enhancement items to Saudi Arabia which was then being reviewed by the Congress (hereafter in this section referred to as the "1981 AWACS communication"), the President stated the following:

"Transfer of the AWACS will take place . . . only after the Congress has received in writing a Presidential certification, containing agreements with Saudi Arabia, that the following conditions have been met:

"1. **Security of Technology**

"A. That a detailed plan for the security of equipment, technology, information, and supporting documentation has been agreed to by the United States and Saudi Arabia and is in place; and

"B. The security provisions are no less stringent than measures employed by the U.S. for protection and control of its equipment of like kind outside the continental U.S.; and

"C. The U.S. has the right of continual on-site inspection and surveillance by U.S. personnel of security arrangements for all operations during the useful life of the AWACS. It is further provided that security arrangements will be supplemented by additional U.S. personnel if it is deemed necessary by the two parties; and

"D. Saudi Arabia will not permit citizens of third nations either to perform maintenance on the AWACS or to modify any such equipment without prior, explicit mutual consent of the two governments; and

"E. Computer software, as designated by the U.S. Government, will remain the property of the USG.

"2. **Access to Information**

"That Saudi Arabia has agreed to share with the United States continuously and completely the information that it acquires from use of the AWACS.

"3. **Control Over Third-Country Participation**

"A. That Saudi Arabia has agreed not to share access to AWACS equipment, technology, documentation, or any information developed from such equipment or technology with any nation other than the U.S. without the prior, explicit mutual consent of both governments; and

"B. There are in place adequate and effective procedures requiring the screening and security clearance of citizens of Saudi Arabia and that only cleared Saudi citizens and cleared U.S. nationals will have access to AWACS equipment, technology, or documentation, or information derived therefrom, without the prior, explicit mutual consent of the two governments.

"4. **AWACS Flight Operations**

"That the Saudi AWACS will be operated solely within the boundaries of Saudi Arabia, except with the prior, explicit mutual consent of the two governments, and solely for defensive purposes as defined by the United States, in order to maintain security and regional stability.

"5. **Command Structure**

"That agreements as they concern organizational command and control structure for the operation of AWACS are of such a nature to guarantee that the commitments above will be honored.

"6. **Regional Peace and Security**

"That the sale contributes directly to the stability and security of the area, enhances the atmosphere and prospects for progress toward peace, and that initiatives toward the peaceful resolution of disputes in the region have either been successfully completed or that significant progress toward that goal has been accomplished with the substantial assistance of Saudi Arabia.".

(2) The Congress finds that the President also stated in the 1981 AWACS communications that should circumstances arise that might require changes in the arrangements described in that communication, "they would be made only with Congressional participation".

(b) REQUIREMENT FOR PRESIDENTIAL CERTIFICATION.—As provided in the 1981 AWACS communication, before the E3A airborne warning and control system (AWACS) aircraft which were the subject of that communication are transferred to Saudi Arabia, the President shall submit to the Congress a written Presidential certification, containing agreements with Saudi Arabia, that the conditions set forth in that communication have been met.

(c) CONGRESSIONAL PARTICIPATION IN CHANGES IN AWACS ARRANGEMENTS.—In order to facilitate the congressional participation provided for in the 1981 AWACS communication, the President shall notify the Congress promptly of any changes being considered by the United States in the arrangements described in that communication.

SEC. 132. COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE.

(a) GENERAL AUTHORITIES.—The Secretary of Defense may carry out the European air defense agreements. In carrying out those agreements, the Secretary—

(1) may provide without monetary charge to the Federal Republic of Germany articles and services as specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) SPECIAL AUTHORITIES.—In connection with the administration of the European air defense agreements, the Secretary of Defense may—

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act;

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units to the Federal Republic of Germany contemplated in the agreements;

(3) use, to the extent contemplated in the agreements, the NATO Maintenance and Supply Agency—

(A) for the supply of logistical support in Europe for the Patriot missile system, and

(B) for the acquisition of such logistical support,

to the extent that the Secretary determines that the procedures of that Agency governing such supply and acquisition are appropriate;

(4) share, to the extent contemplated in the agreements, the costs of setup charges of facilities for use by that Agency to perform depot-level support of Patriot missile fire units in Europe; and

(5) delivery to the Federal Republic of Germany one Patriot missile fire unit configured for training, to be purchased by the Federal Republic of Germany under the Arms Export Control Act as contemplated in the agreements, without regard to the requirement in section 22 of that Act for payment in advance of delivery for any purchase under that Act.

(c) RATE CHARGED FOR CERTAIN SERVICES.—Notwithstanding the rate required to be charged under section 21 of the Arms Export Control Act for services furnished by the United States, in the case of 14 Patriot missile fire units which the Federal Republic of Germany purchases from the United States under the Arms Export Control Act as contemplated in the European air defense agreements, the rate charged by the Secretary of Defense for packing, crating, handling, and transportation services associated with that purchase may not exceed the established Department of Defense rate for such services.

(d) LIMITATION ON CONTRACT AUTHORITY.—The authority of the Secretary of Defense to enter into contracts under the European air defense agreements is available only to the extent that appropriated funds, other than those made available under section 31 of the Arms Export Control Act, are available for that purpose.

(e) RELATION TO FISCAL YEAR 1985 AUTHORIZATION.—The authorities provided by this section are an extension of, and not in addition to, the authorities provided by section 1007 of the Department of Defense Authorization Act, 1985 (98 Stat. 2579), relating to the authority of the Secretary of Defense to carry out the European air defense agreements during fiscal year 1985.

(f) DEFINITION OF EUROPEAN AIR DEFENSE AGREEMENTS.—For the purposes of this section, the term "European air defense agreements" means—

(1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983; and

(2) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on July 12, 1984.

TITLE II—ECONOMIC SUPPORT FUND

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SEC. 202. ASSISTANCE FOR THE MIDDLE EAST.

(a) ISRAEL.[8, 9]—(1) Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $1,200,000,000 for fiscal year 1986[10] and not less than $1,200,000,000 for fiscal year 1987 shall be available only for Israel.

(2) The total amounts of funds allocated for Israel under that chapter for fiscal year 1986 and fiscal year 1987 shall be made available as a cash transfer on a grant basis. Such transfer shall be made on an expedited basis in the first 30 days of the respective fiscal year. In exercising the authority of this paragraph, the President shall ensure that the level of cash transfer made to Israel does not cause an adverse impact on the total level of nonmilitary exports from the United States to Israel.

(b) EGYPT.—(1) Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $815,000,000 for fiscal year 1986[11] and not less than $815,000,000 for fiscal year 1987 shall be available only for Egypt.

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[8] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190), contained the following:

"That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors and achieve realization of the Camp David Accords."

Identical language was contained in title II of the 1987 version of the Act (Public Law 99–591, 100 Stat. 3341–221).

[9] Sec. 532 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190, 99 Stat. 1308), provided the following:

"SEC. 532. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region."

Section 531 of the 1987 version of the Act (Public Law 99–591, 100 Stat. 3341–231), contained identical language to sec. 532 above.

[10] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190, 99 Stat. 1298), provided appropriations for the Economic Support Fund:

"* * * not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1985, whichever is later * * *.".

Title II of the 1987 Act (Public Law 99–591, 100 Stat. 3341–220) contained identical language to that above except that the amount is "$1,200,000,000", and the date is "October 31, 1986".

[11] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190, 99 Stat. 1298), provided the following for Economic Support Fund for Egypt:

"not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not less than $115,000,000 shall be provided as a cash transfer in accordance with the provisions of section 202(b) of Public Law 99–83, and not less than $200,000,000 shall be provided as a Commodity Import Program:"

Title II of the 1987 version of the Act (Public Law 99–591, 100 Stat. 3341–220) contained identical language, as well as the following:

"* * * *Provided further*, That notwithstanding any other provision of law, the Agency for International Development is authorized to obligate such funds as it deems necessary in excess

Continued

(2) All of the funds made available to Egypt under that chapter for the fiscal years 1986 and 1987 shall be provided on a grant basis.

(3) Up to $115,000,000 of the amounts provided for Egypt for each of the fiscal years 1986 and 1987 pursuant to paragraph (1) may be provided as a cash transfer with the understanding that Egypt will undertake economic reforms or development activities which are additional to those which would be undertaken in the absence of the cash transfer.

(c) COOPERATIVE SCIENTIFIC AND TECHNOLOGICAL PROJECTS.—It is the sense of the Congress that, in order to continue to build the structure of peace in the Middle East, the United States should finance, and where appropriate participate in, cooperative projects of a scientific and technological nature involving Israel and Egypt and other Middle East countries wishing to participate. These cooperative projects should include projects in the fields of agriculture, health, energy, the environment, education, water resources, and the social sciences.

SEC. 203. ASSISTANCE FOR CYPRUS.

(a) EARMARKS.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $15,000,000 for fiscal year 1986 [12] and not less than $15,000,000 for fiscal year 1987 shall be available only for Cyprus.

(b) CYPRUS PEACE AND RECONSTRUCTION FUND.—It is the sense of the Congress that, at the appropriate time, $250,000,000 should be authorized to be appropriated to provide assistance for Cyprus under chapter 4 of part II of the Foreign Assistance Act of 1961 if the President certifies to the Congress that an agreement has been concluded by the Greek and Turkish Cypriots which is supported by Greece and Turkey and which achieves substantial progress toward settlement of the Cyprus dispute. Such an agreement should include an agreement on Varosha/Famagusta, foreign troop levels in the Republic of Cyprus, the disposition of the internation-

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of $115,000,000 from the funds appropriated for assistance to Egypt for the fiscal year 1987 as direct cash transfer for Egypt: *Provided further*, That such obligations in excess of $115,000,000 shall only be made in support of the implementation of a comprehensive structural economic reform program by the Government of Egypt: *Provided further*, That all such cash transfers in excess of $115,000,000 shall be subject to the regular notification procedures of the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Appropriations Committee of the House and Senate: *Provided further*, That such notifications for the provision of cash transfers in excess of $115,000,000 shall include detailed descriptions of the comprehensive structural economic reform program of the Government of Egypt: *Provided further*, That if the Agency for International Development obligates cash transfer assistance for Egypt exceeding $115,000,000, as permitted above, then such increased funding shall be derived through proportionate reductions in both the Commodity Import Program and project assistance: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords: * * *."

[12] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99-190), provided the following for Economic Support Fund for Cyprus for fiscal year 1986:

"* * * of the funds appropriated or otherwise made available under this heading, $15,000,000 shall be available only for Cyprus (except that any offshore procurement must meet Agency for International Development procurement source and origin regulations):"

Title II of the 1987 version of the Act (Public Law 99-591, 100 Stat. 3341-221) provided: "That not less than $15,000,000 of the funds appropriated under this paragraph shall be available for Cyprus:"

al airport on Cyprus, or other significant steps which are evidence of substantial progress toward an overall settlement of the Cyprus dispute.

SEC. 204. ASSISTANCE FOR PORTUGAL.

Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $80,000,000 for fiscal year 1986 and $80,000,000 for fiscal year 1987 shall be available only for Portugal.

SEC. 205. ACQUISITION OF AGRICULTURAL COMMODITIES UNDER COMMODITY IMPORT PROGRAMS.

The President shall use not less than 18 percent of the funds which are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for each of the fiscal years 1986 and 1987, and which are made available for commodity import programs, for the purchase of agricultural commodities of United States-origin.

SEC. 206. TIED AID CREDIT PROGRAM.

Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated for Commodity Import Programs—

(1) not less than $50,000,000 for fiscal year 1986, and

(2) an aggregate of not less than $100,000,000 for both fiscal years 1986 and 1987,

shall be deposited in the fund authorized by subsection (c)(2) of section 645 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635r) and shall be used by the Agency for International Development in carrying out the program of tied aid credits for United States exports which is provided for in that section. Funds that have not been obligated pursuant to the tied aid credit program by the end of the third quarter of the fiscal year for which they were appropriated may be used for other purposes under chapter 4 of part II of the Foreign Assistance Act of 1961 if the Administrator of the Agency for International Development certifies to the Congress that (A) no trade credit application acceptable and timely under the Trade and Development Enhancement Act of 1983 is pending, or (B) those funds are not needed for that program because other countries are not engaging in predatory financing practices in order to compete with United States exports.

SEC. 207. RESTRICTION ON USE OF FUNDS FOR NUCLEAR FACILITIES.

Funds authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 1986 or fiscal year 1987 may not be used to finance the construction of, the operation or maintenance of, or the supplying of fuel for, any nuclear facility in a foreign country unless the President certifies to the Congress that such country is a party to the Treaty on the Non-Proliferation of Nuclear Weapons or the Treaty for the Prohibition of Nuclear Weapons in Latin America (the "Treaty of Tlatelolco"), cooperates fully with the International Atomic Energy Agency, and pursues nonproliferation policies consistent with those of the United States.

SEC. 208. FISCAL YEAR 1985 SUPPLEMENTAL AUTHORIZATION.

(a) AUTHORIZATION.—In addition to the amount appropriated for such purpose by Public Law 98–473, there are authorized to be appropriated $2,008,000,000 for fiscal year 1985 to carry out the purposes of chapter 4 of part II of the Foreign Assistance Act of 1961. Of this amount, $1,500,000,000 shall be available only for Israel, $500,000,000 shall be available only for Egypt, and $8,000,000 shall be available only for the Middle East Regional Program. Amounts appropriated pursuant to this section are authorized to remain available until September 30, 1986.

(b) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

TITLE III—DEVELOPMENT ASSISTANCE

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SEC. 305. PROMOTION OF IMMUNIZATION AND ORAL REHYDRATION.

(a) * * *

(b) ANNUAL REPORTS.—Each annual report required by section 634 of the Foreign Assistance Act of 1961 shall describe the progress achieved during the preceding fiscal year in carrying out section 104(c)(3) of such Act.

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SEC. 311.[13] USE OF PRIVATE AND VOLUNTARY ORGANIZATIONS, COOPERATIVES, AND THE PRIVATE SECTOR.

(a) STUDY.—The Administrator of the Agency for International Development shall undertake a comprehensive study of additional ways to provide development assistance through nongovernmental organizations, including United States and indigenous private and voluntary organizations, cooperatives, the business community, and other private entities. Such study shall include—

(1) an analysis of the percentage of development assistance allocated to governmental and nongovernmental programs;

(2) an analysis of structural impediments, within both the United States and foreign governments, to additional use of nongovernmental programs; and

(3) an analysis of the comparative economic benefits of governmental and nongovernmental programs.

(b) REPORT.—The Administrator shall report the results of this study to the Congress no later than September 30, 1986.

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SEC. 315. MINORITY SET-ASIDE.

Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate of the funds made available for each of the fiscal years 1986 and 1987 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5)(B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

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[13] 22 U.S.C. 2151u note.

TITLE IV—OTHER FOREIGN ASSISTANCE PROGRAMS

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SEC. 402. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS.

(a) * * *

(b) FISCAL YEAR 1985 CONTRIBUTION TO UNITED NATIONS ENVIRONMENT PROGRAM.—Notwithstanding section 614 of the Foreign Assistance Act of 1961 or any other provision of law, $10,000,000 [14] of the funds appropriated for the fiscal year 1985 to carry out chapter 3 of part I of such Act shall be available only for the United Nations Environment Program. This subsection shall take effect on the date of enactment of this Act.

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TITLE V—INTERNATIONAL TERRORISM AND FOREIGN AIRPORT SECURITY

PART A—INTERNATIONAL TERRORISM GENERALLY [15]

* * * * * * *

SEC. 502. COORDINATION OF ALL UNITED STATES TERRORISM-RELATED [16] ASSISTANCE TO FOREIGN COUNTRIES.

(a) COORDINATION.—The Secretary of State shall be responsible for coordinating all assistance related to international terrorism [16] which is provided by the United States Government.

(b) REPORTS.—Not later than February 1 each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance related to international terrorism [16] which was provided by the United States Government during the preceding fiscal year. Such reports may be provided on a classified basis to the extent necessary, and shall specify the amount and nature of the assistance provided.

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[14] Title I of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190, 99 Stat. 1294), made available $9,000,000.

[15] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99–190, 99 Stat. 1300), appropriated $7,420,000 for anti-terrorism assistance for fiscal year 1986.

Title II of the 1987 Act (Public Law 99–591, 100 Stat. 3341–223) provided the following:

"ANTI-TERRORISM ASSISTANCE

"For necessary expenses to carry out the provisions of chapter 8 of part II, $9,840,000."

In addition, Title I, chapter V of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99–349, 100 Stat. 725), provided the following:

"DEPARTMENT OF STATE

"ANTI-TERRORISM ASSISTANCE (TRANSFERS OF FUNDS)

"For an additional amount to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $2,739,000, to be derived by transfer from any of the funds appropriated or otherwise made available in titles I, II, III, and IV of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99–190)."

[16] Sec. 503 of Public Law 99–399, 100 Stat. 871, substituted the references to "terrorism-related" or "related to international terrorism" in lieu of references to "anti-terrorism."

(c) [17] RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.[18]

SEC. 504. PROHIBITION ON IMPORTS FROM AND EXPORTS TO LIBYA.

(a) PROHIBITION ON IMPORTS.—Notwithstanding any other provision of law, the President may prohibit any article grown, produced, extracted, or manufactured in Libya from being imported into the United States.

(b) PROHIBITION ON EXPORTS.—Notwithstanding any other provision of law, the President may prohibit any goods or technology, including technical data or other information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, from being exported to Libya.

(c) DEFINITION.—For purposes of this section, the term "United States", when used in a geographical sense, includes territories and possessions of the United States.

SEC. 505.[19] BAN ON IMPORTING GOODS AND SERVICES FROM COUNTRIES SUPPORTING TERRORISM.

(a) AUTHORITY.—The President may ban the importation into the United States of any good or service from any country which supports terrorism or terrorist organizations or harbors terrorist or terrorist organizations.

(b) CONSULTATION.—The President, in every possible instance, shall consult with the Congress before exercising the authority granted by this section and shall consult regularly with the Congress so long as that authority is being exercised.

(c) REPORTS.—Whenever the President exercises the authority granted by this section, he shall immediately transmit to the Congress a report specifying—

(1) The country with respect to which the authority is to be exercised and the imports to be prohibited;

(2) the circumstances which necessitate the exercise of such authority;

(3) why the President believes those circumstances justify the exercise of such authority; and

(4) why the President believes the prohibitions are necessary to deal with those circumstances.

At least once during each succeeding 6-month period after transmitting a report pursuant to this subsection, the President shall report to the Congress with respect to the actions taken, since the last such report, pursuant to this section and with respect to any changes which have occurred concerning any information previously furnished pursuant to this subsection.

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[17] Subsection (c) was added by sec. 503 of Public Law 99-399, 100 Stat. 871.

[18] For text, see vol. II, sec. D.

[19] 22 U.S.C. 2349aa-9.

(d) DEFINITION.—For purposes of this section, the term "United States" includes territories and possessions of the United States.

SEC. 506. INTERNATIONAL ANTI-TERRORISM COMMITTEE.

The Congress calls upon the President to seek the establishment of an international committee, to be known as the International Anti-Terrorism Committee, consisting of representatives of the member countries of the North Atlantic Treaty Organization, Japan, and such other countries as may be invited and may choose to participate. The purpose of the Committee should be to focus the attention and secure the cooperation of the governments and the public of the participating countries and of other countries on the problems and responses to international terrorism, by serving as a forum at both the political and law enforcement levels.

SEC. 507. INTERNATIONAL TERRORISM CONTROL TREATY.

It is the sense of the Congress that the President should establish a process by which democratic and open societies of the world, which are those most plagued by terrorism, negotiate a viable treaty to effectively prevent and respond to terrorist attacks. Such a treaty should incorporate an operative definition of terrorism, and should establish effective close intelligence-sharing, joint counterterrorist training, and uniform laws on asylum, extradition, and swift punishment for perpetrators of terrorism. Parties to such a treaty should include, but not be limited to, those democratic nations who are most victimized by terrorism.

SEC. 508. STATE TERRORISM.

It is sense of the Congress that all civilized nations should firmly condemn the increasing use of terrorism by certain states as an official instrument for promoting their policy goals, as evidenced by such examples as the brutal assassination of Major Arthur D. Nicholson, Junior, by a member of the Soviet armed forces.

PART B—FOREIGN AIRPORT SECURITY

SEC. 551. SECURITY STANDARDS FOR FOREIGN AIR TRANSPORTATION.

(a) SECURITY AT FOREIGN AIRPORTS.—Section 1115 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1515) is amended to read as follows:

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

"ASSESSMENT OF SECURITY MEASURES

"SEC. 1115. (a)(1) The Secretary of Transportation shall conduct at such intervals as the Secretary shall deem necessary an assessment of the effectiveness of the security measures maintained at those foreign airports being served by air carriers, those foreign airports from which foreign air carriers serve the United States, those foreign airports which pose a high risk of introducing danger to international air travel, and at such other foreign airports as the Secretary may deem appropriate.

"(2) Each such assessment shall be made by the Secretary of Transportation in consultation with the appropriate aeronautic authorities of the foreign government concerned and each air carrier serving the foreign airport at which the Secretary is conducting such assessment.

"(3) The assessment shall determine the extent to which an airport effectively maintains and administers security measures. In making an assessment of any airport under this subsection, the Secretary shall use a standard which will result in an analysis of the security measures at such airport based upon, at a minimum, the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation, as those standards and recommended practices are in effect on the date of such assessment.

"CONSULTATION WITH THE SECRETARY OF STATE

"(b) In carrying out subsection (a), the Secretary of Transportation shall consult the Secretary of State with respect to the terrorist threat which exists in each country. The Secretary of Transportation shall also consult with the Secretary of State in order to determine which foreign airports are not under the de facto control of the government of the country in which they are located and pose a high risk of introducing danger to international air travel.

"REPORT OF ASSESSMENTS

"(c) Each report to the Congress required by section 315 of this Act shall contain a summary of the assessments conducted pursuant to subsection (a).

"NOTIFICATION TO FOREIGN COUNTRY OF DETERMINATION

"(d) Whenever, after an assessment in accordance with subsection (a), the Secretary of Transportation determines that an airport does not maintain and administer effective security measures, the Secretary (after advising the Secretary of State) shall notify the appropriate authorities of such foreign government of such determination, and recommend the steps necessary to bring the security measures in use at that airport up to the standard used by the Secretary in making such assessment.

"NOTICE AND SANCTIONS

"(e)(1) Paragraph (2) of this subsection shall become effective—

"(A) 90 days after notification to the foreign government pursuant to subsection (d), if the Secretary of Transportation finds that the foreign government has failed to bring the security measures at the identified airport up to the standard used by the Secretary in making an assessment of such airport under subsection (a); or

"(B) immediately upon the Secretary of Transportation's determination under subsection (d) if the Secretary of Transportation determines, after consultation with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from such airport.

The Secretary of Transportation shall immediately notify the Secretary of State of any determination made pursuant to subparagraph (B) so that the Secretary of State may comply with the requirement of section 552(a) of the International Security and Development Cooperation Act of 1985 that a travel advisory be issued.

"(2) Subject to paragraph (1), if the Secretary of Transportation determines pursuant to this section that an airport does not maintain and administer effective security measures—

"(A) the Secretary of Transportation—

"(i) shall publish the identity of such airport in the Federal Register,

"(ii) shall cause the identity of such airport to be posted and prominently displayed at all United States airports regularly being served by scheduled air carrier operations, and

"(iii) shall notify the news media of the identity of such airport;

"(B) each air carrier and foreign air carrier providing service between the United States and such airport shall provide notice of such determination by the Secretary to any passenger purchasing a ticket for transportation between the United States and such airport, with such notice to be made by written material included on or with such ticket;

"(C) the Secretary of Transportation, after consultation with the appropriate aeronautical authorities of the foreign government concerned and each air carrier serving such airport, may, notwithstanding section 1102 of this Act and with the approval of the Secretary of State, withhold, revoke, or impose conditions on the operating authority of any air carrier or foreign air carrier to engage in foreign air transportation utilizing such airport; and

"(D) the President may prohibit air carriers and foreign air carriers from providing service between the United States and any other foreign airport which is directly or indirectly served by aircraft flying to or from the airport with respect to which the determination is made under this section.

"(3) The Secretary of Transportation shall promptly submit to the Congress a report (with a classified annex if necessary) on any action taken under this subsection, setting forth information concerning the attempts made to secure the cooperation of the foreign government in meeting the standard used by the Secretary in making the assessment of the airport under subsection (a).

"LIFTING OF SANCTIONS

"(f)(1) The sanctions required to be imposed with respect to an airport pursuant to subsection (e)(2) (A) and (B) may be lifted only if the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at that airport.

"(2) The Congress shall be notified if any sanction imposed pursuant to subsection (e) is lifted.

"AUTHORITY FOR IMMEDIATE SUSPENSION OF AIR SERVICE

"(g) Notwithstanding sections 1102 and 1114 of this Act, whenever the Secretary of Transportation determines that—

"(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport, and

"(2) the public interest requires an immediate suspension of services between the United States and the identified airport, the Secretary of Transportation shall, without notice or hearing and with the approval of the Secretary of State, suspend the right of any air carrier or foreign air carrier to engage in foreign air transportation to or from that foreign airport and the right of any person to operate aircraft in foreign air commerce to or from that foreign airport.

"CONDITIONS OF AUTHORITY

"(h) The provisions of this section shall be deemed to be a condition to any authority granted under title IV or title VI of this Act to any air carrier or any foreign air carrier, issued under authority vested in the Secretary of Transportation.".

(b) CONFORMING AMENDMENTS.—

(1) INFORMATION IN SEMIANNUAL REPORTS.—Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356(a)) is amended by adding at the end thereof the following new sentence: "Each semiannual report submitted by the Administrator pursuant to the preceding sentence shall include the information described in section 1115(c) of this Act.".

(2) CIVIL PENALTIES.—Section 901(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1471(a)(1)) is amended by inserting "or 1115(e)(2)(B)" after "1114."

(3) TABLE OF CONTENTS.—That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1115. Security standards in foreign air transportation.".

and inserting in lieu thereof

"Sec. 1115. Security standards in foreign air transportation.
"(a) Assessment of security measures.
"(b) Consultation with the Secretary of State.
"(c) Report of assessments.
"(d) Notification to foreign country of determination.
"(e) Notice and sanctions.
"(f) Lifting of sanctions.
"(g) Authority for immediate suspension of air service.
"(h) Conditions of authority.".

(c) CLOSING OF BEIRUT INTERNATIONAL AIRPORT.—It is the sense of the Congress that the President is urged and encouraged to take all appropriate steps to carry forward his announced policy of seeking the effective closing of the international airport in Beirut, Lebanon, at least until such time as the Government of Lebanon has instituted measures and procedures designed to prevent the use of that airport by aircraft hijackers and other terrorists in attacking civilian airlines or their passengers, hijacking their aircraft, or taking or holding their passengers hostage.

SEC. 552.[20] TRAVEL ADVISORY AND SUSPENSION OF FOREIGN ASSISTANCE.

(a) Travel Advisory.—Upon being notified by the Secretary of Transportation that the Secretary has determined, pursuant to subsection (e)(1)(B) of section 1115 of the Federal Aviation Act of 1958 that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport which the Secretary of Transportation has determined pursuant to that section to be an airport which does not maintain and administer effective security measures, the Secretary of State shall immediately issue a travel advisory with respect to that airport. Any travel advisory issued pursuant to this subsection shall be published in the Federal Register. The Secretary of State shall take the necessary steps to widely publicize that travel advisory.

(b) Suspension of Foreign Assistance.—The President shall suspend all assistance under the Foreign Assistance Act of 1961 or the Arms Export Control Act to any country in which is located an airport with respect to which section 1115(e)(2) of the Federal Aviation Act of 1958 becomes effective if the Secretary of State determines that such country is a high terrorist threat country. The President may waive the requirements of this subsection if the President determines and reports to the Congress that national security interests or a humanitarian emergency require such waiver.

(c) Lifting Sanctions.—The sanctions required to be imposed pursuant to this section may be lifted only if, pursuant to section 1115(f) of the Federal Aviation Act of 1958, the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the airport with respect to which the Secretary of Transportation had made the determination described in section 1115 of that Act.

(d) Notification to Congress.—The Congress shall be notified if any sanction imposed pursuant to this section is lifted.

SEC. 553.[21] UNITED STATES AIRMARSHAL PROGRAM.

(a) Study of Need for Expansion of Program.—The Secretary of Transportation, in coordination with the Secretary of State, shall study the need for an expanded airmarshal program on international flights of United States air carriers. The Secretary of Transportation shall report the results of this study to the Congress within 6 months after the date of enactment of this Act.

(b) Authority to Carry Firearms and Make Arrests.—The Secretary of Transportation, with the approval of the Attorney General and the Secretary of State, may authorize persons, in connection with the performance of their air transportation security duties, to carry firearms and to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States, if they have reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

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[20] 49 U.S.C. app. 1515a.

[21] 49 U.S.C. app. 1356b.

SEC. 554. ENFORCEMENT OF INTERNATIONAL CIVIL AVIATION ORGANIZATION STANDARDS.

The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to enforce that Organization's existing standards and to support United States actions enforcing such standards.

SEC. 555. INTERNATIONAL CIVIL AVIATION BOYCOTT OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

It is the sense of the Congress that the President—

(1) should call for an international civil aviation boycott with respect to those countries which the President determines—

(A) grant sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(B) otherwise support international terrorism; and

(2) should take steps, both bilateral and multilateral, to achieve a total international civil aviation boycott with respect to those countries.

SEC. 556.[22] MULTILATERAL AND BILATERAL AGREEMENTS WITH RESPECT TO AIRCRAFT SABOTAGE, AIRCRAFT HIJACKING, AND AIRPORT SECURITY.

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance with respect to aircraft sabotage, aircraft hijacking, and airport security.

SEC. 557. RESEARCH ON AIRPORT SECURITY TECHNIQUES FOR DETECTING EXPLOSIVES.

In order to improve security at international airports, there are authorized to be appropriated to the Secretary of Transportation from the Airport and Airway Trust Fund (in addition to amounts otherwise available for such purpose) $5,000,000, without fiscal year limitation, to be used for research on and the development of airport security devices or techniques for detecting explosives.

SEC. 558. HIJACKING OF TWA FLIGHT 847 AND OTHER ACTS OF TERRORISM.

The Congress joins with all Americans in celebrating the release of the hostages taken from Trans World Airlines flight 847. It is the sense of the Congress that—

(1) purser Uli Derickson, pilot John Testrake, co-pilot Philip Maresca, flight engineer Benjamin Zimmermann, and the rest of the crew of Trans World Airlines flight 847 displayed extraordinary valor and heroism during the hostages' ordeal and therefore should be commended;

(2) the hijackers who murdered United States Navy Petty Officer Stethem should be immediately brought to justice;

(3) all diplomatic means should continue to be employed to obtain the release of the 7 United States citizens previously kidnapped and still held in Lebanon;

(4) acts of international terrorism should be universally condemned; and

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[22] 49 U.S.C. app. 1515 note.

(5) the Secretary of State should be supported in his efforts to gain international cooperation to prevent future acts of terrorism.

SEC. 559. EFFECTIVE DATE.

This part shall take effect on the date of enactment of this Act.

TITLE VI—INTERNATIONAL NARCOTICS CONTROL

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SEC. 607. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $1,000,000 for each of the fiscal years 1986 and 1987 shall be made available to arm, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

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SEC. 610.[23] ASSISTANCE FOR JAMAICA.

In allocating assistance for Jamaica for fiscal year 1986 under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), the President shall give major consideration to whether the Government of Jamaica has prepared, presented, and committed itself to a comprehensive plan or strategy for the control and reduction of illicit cultivation, production, processing, transportation, and distribution of marijuana within a specifically stated period of time.

SEC. 611.[24] ASSISTANCE FOR BOLIVIA.

Assistance may be provided to Bolivia for fiscal years 1986 and 1987 under chapter 2 (relating to grant military assistance), chap-

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[23] Sec. 537 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99-190, 99 Stat. 1308), provided in part:

"Of the funds made available by this Act for Jamaica and Peru, not more than 50 per centum of the funds made available for each country shall be obligated unless the President determines and reports to the Congress that the governments of these countries are sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States: *Provided*, That this provision shall not be applicable to funds made available to carry out section 481 of the Foreign Assistance Act of 1961."

The 1987 version of the Act (Public Law 99-591, 100 Stat. 3341-232) contained identical text in sec. 536.

[24] Sec. 537 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99-190, 99 Stat. 1308), provided:

"That assistance may be provided to Bolivia for Fiscal Year 1986, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only under the following conditions:

"For Fiscal Year 1986—

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has enacted legislation that will establish its legal coca requirements, provide for the licens-

Continued

ter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only under the following conditions:

(1) For fiscal year 1986—

(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has enacted legislation that will establish its legal coca requirements, provide for the licensing of the number of hectares necessary to produce the legal requirement, and make unlicensed coca production illegal; and

(B) the remaining amount of such assistance may be provided at any time following a certification pursuant to subparagraph (A) if the President certifies to the Congress that the Government of Bolivia has achieved the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States.

(2) For fiscal year 1987, such assistance may not be provided unless the President certifies to the Congress that the Government of Bolivia has developed a plan to eliminate illicit narcotics production countrywide and is prepared to enter into an agreement with the United States to implement that plan. If that certification is made, then—

(A)[25] up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia or has cooperated with the United States in such operations; and

(B)[25] the remaining amount of such assistance may be provided at any time after the President certifies to the Congress that Bolivia has either met in calendar year 1986 the eradication targets for the calendar year 1985 con-

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ing of the number of hectares necessary to produce the legal requirement, and make unlicensed coca production illegal; and

"(B) the remaining amount of such assistance may be provided at any time following a certification pursuant to subparagraph (A) if the President certifies to the Congress that the Government of Bolivia achieved the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States."

Sec. 535 of the 1987 Act (Public Law 99-591, 100 Stat. 3341-232) provided:

"* * * That assistance may be provided to Bolivia for fiscal year 1987, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only in accordance with the provisions of section 611 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) as amended by section 2011 of H.R. 5484 as passed by the Senate on September 30, 1986."

[25] Sec. 2012(b) of Public Law 99-570, 100 Stat. 3207, amended subparagraphs (A) and (B) of paragraph (2) which previously read as follows:

"(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has achieve at least half of the eradication target for the calendar year 1986 agreed to by the United States and the Government of Bolivia; and

"(B) the remaining amount of such assistance may be provided at any time the President certifies to the Congress that the Government of Bolivia fully achieved that eradication target."

tained in its 1983 narcotics agreements with the United States or has entered into an agreement of cooperation with the United States for implementing that plan for 1987 and beyond (including numerical eradication targets) and is making substantial progress toward the plan's objectives, including substantial eradication of illicit coca crops and effective use of United States assistance.

In the certification required by subparagraph (B), the President shall explain why the terms of the 1983 agreement provided unattainable and the reasons why a new agreement was necessary.

SEC. 612.[23] ASSISTANCE TO PERU.

(a) CONDITIONS ON ASSISTANCE.—United States assistance (as defined by section 481(i)(4) of the Foreign Assistance Act of 1961) may be provided for Peru—

(1) for fiscal year 1986, only if the President reports to the Congress that the Government of Peru has demonstrated substantial progress in developing a plan that will establish its legal coca requirements, license the number of hectares necessary to produce the legal requirement, and eliminate illicit and unlicensed coca production; and

(2) for fiscal year 1987, only if the President reports to the Congress that the Government of Peru has developed such a plan and is implementing it.

(b) UPPER HUALLAGA VALLEY PROJECT.—Funds authorized to be appropriated for fiscal year 1987 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) may be made available for the project of the Agency for International Development in the Upper Huallaga Valley of Peru only if the Administrator of that Agency, after consultation with the Congress, determines that a comprehensive review of that project has been completed which establishes the effectiveness of that project in reducing and eradicating coca leaf production, distribution, and marketing in the Upper Huallaga Valley. The assistance for Peru described in this subsection may be provided only if the report required by subsection (a)(2) has been submitted to the Congress.

SEC. 613. REALLOCATION OF FUNDS IF CONDITIONS NOT MET.

If any of the assistance described in section 611 is not provided for Bolivia because the conditions specified in that section are not met, or if any of the assistance described in section 612(a) is not provided for Peru because the conditions specified in that section are not met, the President shall reprogram such assistance in order to provide additional assistance to countries which have taken significant steps to halt illicit drug production or trafficking.

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SEC. 615. LATIN AMERICAN REGIONAL NARCOTICS CONTROL ORGANIZATION.

(a) FEASIBILITY STUDY.—The Secretary of State, with the assistance of the National Drug Enforcement Policy Board, shall conduct a study of the feasibility of establishing a regional organization in Latin America which would combat narcotics production and trafficking through regional information-sharing and a regional enforcement unit.

(b) REPORT.—No later than six months after the date of enactment of this Act, a report on the advisability of encouraging the establishment of such an organization shall be submitted to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

SEC. 616. GREATER EFFORT BY UNITED STATES ARMED FORCES TO SUPPORT NARCOTICS CONTROL EFFORTS ABROAD.

No later than 60 days after the date of enactment of this Act, the President shall report to the Congress on why the United States Armed Forces should not exert greater effort in facilitating and supporting interception of narcotics traffickers, and in gathering narcotics-related intelligence, outside the United States.

SEC. 617. CUBAN DRUG TRAFFICKING.

(a) FINDINGS.—The Congress finds that—

(1) the subject of the flow, use, and control of narcotic and psychotropic substances is a matter of great international importance;

(2) the problem of drug abuse and drug trafficking continues to worsen throughout most parts of the world;

(3) the concerns of the governments of many countries have become manifest in several bilateral and multilateral narcotics control projects;

(4) United Nations agencies monitor and apply controls on the flow and use of drugs and coordinate multilateral efforts to control production, trafficking, and abuse of drugs;

(5) the United Nations Fund for Drug Abuse Control funds narcotics projects throughout the world and has been a vehicle since 1971 for multilateral implementation of narcotics control and reduction programs;

(6) the International Narcotics Control Board is charged with monitoring compliance with the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, and Cuba is a party to both Conventions;

(7) the United Nations Commission on Narcotic Drugs is responsible for formulating policies, coordinating activities, supervising the implementation of international conventions, and making recommendations to governments for international drug control;

(8) the promotion of drug abuse and participation in drug trafficking is universally considered egregious criminal behavior wherever it occurs, whether it occurs locally, nationally, or internationally;

(9) a Federal grand jury of the United States has indicted four prominent Cuban officials on charges of conspiring to smuggle drugs into the United States;

(10) United States Government officials have testified at several congressional hearings that the Government of Cuba is facilitating the flow of illicit drugs into the United States in order to obtain hard currency, support guerrilla/terrorist activities, and undermine United States society; and

(11) such alleged conduct on the part of the Government of Cuba would be injurious to the world community and counter to the general principle of international law that no country has the right to use or permit the use of its territory in such a manner as to injure another country or persons therein.

(b) RECOMMENDED ACTIONS.—It is the sense of the Congress that the President should—

(1) acting through the Permanent Representative of the United States to the United Nations, take such steps as may be necessary to place the question of the involvement by the Government of Cuba in illicit drug trafficking on the agenda of the United Nations;

(2) acting through the Representative of the United States to the Organization of American States, request the Organization of American States to consider this question as soon as possible; and

(3) request other appropriate international organizations and international forums to consider this question.

(c) REPORT.—The President shall report to the Congress on the actions taken pursuant to this section.

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SEC. 619.[26] DRUG TRAFFICKING AND THE PROBLEM OF TOTAL CONFIDENTIALITY OF CERTAIN FOREIGN BANK ACCOUNTS.

(a) FINDINGS.—The Congress finds that—

(1) several banks in Latin America and the Caribbean are used by narcotics traffickers as depositories for money obtained in providing illicit drugs to the United States and other countries of the region;

(2) offshore banks which provide total confidentiality provide a service which materially assists the operations of illicit drug traffickers; and

(3) cooperation in gaining access to the bank accounts of such narcotics traffickers would materially assist United States authorities in controlling the activities of such traffickers.

(b) POLICY.—The Congress—

(1) requests the President to negotiate treaties or appropriate international agreements with all countries providing confidential banking services (giving high priority to countries in the Caribbean region) to provide disclosure to the United States Government of information contained in official records, and in records of bank accounts, concerning persons under investigation for violations of United States law, in particular those regarding international drug trafficking;

(2) directs the President to include reports on the results of such efforts in the annual International Narcotics Control Strategy Report; and

(3) reaffirms its intention to obtain maximum cooperation on the part of all governments for the purpose of halting international drug trafficking, and constantly to evaluate the cooperation of those governments receiving assistance from the United States.

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[26] 22 U.S.C. 2291 note.

TITLE VII—WESTERN HEMISPHERE

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SEC. 702.[27] EL SALVADOR.

(a) SUPPORT FOR EL SALVADOR.—(1) The Congress finds that—

(A) a free and democratic El Salvador is in the security interest of the United States;

(B) Jose Napoleon Duarte was elected President of El Salvador in 1984 in the most democratic election held in El Salvador in many years;

(C) political violence in El Salvador has declined dramatically under President Duarte's leadership;

(D) President Duarte's policies of respect for human rights, political pluralism, dialogue and reconciliation with the Salvadoran guerrilla force, legal and social reform and effective defense against the violent overthrow of the Salvadoran government are deserving of praise from all who believe in a democratic form of government;

(E) the March 31, 1985, legislation and municipal elections were successfully carried out, with 64 percent of the electorate defying guerrilla attacks to vote;

(F) the victory of President Duarte's Christian Democratic Party reaffirms the support for these policies by his fellow citizens, the essential test of any government or movement;

(G) in spite of the state of siege technically in effect due to the insurgent threat, observance of free speech, free press, and free assembly are widely enjoyed in El Salvador and permit public airing of opposing political views;

(H) President Duarte is firmly committed to judicial reform and prosecution of cases involving "death squads";

(I) President Duarte's leadership and popular support has notably weakened the popular support given the guerrillas, as evidenced by the high levels of voter participation in the free elections held in El Salvador since 1982, the reduction in territory in which the guerrillas can freely operate, their inability to mount frontal military attacks, and their resort to economic sabotage, ambushes, political assassination, and urban terrorism with blatant disregard for basic human rights; and

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[27] Sec. 537 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99-591, 100 Stat. 3341-232), provided:

"None of the funds available in this Act may be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate are notified at least fifteen days in advance in accordance with the procedures applicable to notifications."

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"SEC. 545. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders."

(J) President Duarte has succeeded in reversing the decline in his country's economy which, though still weak, has better prospects than in recent years.

(2) Therefore, it is the sense of the Congress that—

(A) President Duarte is to be congratulated for his outstanding leadership under difficult circumstances and for his efforts to foster democratic government and institutions in his country, and he is encouraged to continue his efforts to promote political pluralism, democratic institutions, and respect for human rights in his country; and

(B) the armed services of El Salvador are to be congratulated for their improved performance and professionalism in defending Salvadoran citizens and their democratically elected government from attack by armed insurgents, and especially for their role in helping to protect and uphold the electoral process.

(3) The Congress reaffirms the importance of continued support for democratic principles and institutions and respect for human rights by the various sectors of Salvadoran society, which is a major factor in United States support for El Salvador.

(b) OBJECTIVES.—The Congress expects that—

(1) the Government of El Salvador will be willing to pursue a dialogue with the armed opposition forces and their political representatives for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections;

(2) the elected civilian government will be in control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C111-03-984 (relating to aerial fire support);

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (c), in ending the activities of the death squads;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (c), in establishing an effective judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (c), in implementing the land reform program.

(c) REPORTS.—On October 1, 1985, April 1, 1986, October 1, 1986, and April 1, 1987, the President shall report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (b) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall discuss whether the commission proposed by the President of El Salvador to investigate human rights cases has been established, funded, and given sufficient investigative powers; whether the evidence that commission collects may be used in the Salvadoran judicial process; whether that commission has issued a comprehensive report with regard to its investigation of all Americans murdered in El Salvador; and whether those responsible for the Las Hojas massacre are being prosecuted.

(d) AIRCRAFT FOR AERIAL WARFARE.—(1) The authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(2) Paragraph (1) shall take effect on the date of enactment of this Act and shall remain in effect until October 1, 1987.

(e) SPECIAL ACCOUNT FOR LOCAL CURRENCIES.—(1) All local currencies, which are generated with the funds provided to El Salvador for balance-of-payments support for fiscal years 1986 and 1987 under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), shall be deposited in accordance with section 609 of that Act in a special account established by the Government of El Salvador.

(2) Local currencies deposited pursuant to paragraph (1) shall be used for projects assisting agrarian reform and the agricultural sector (and particular emphasis shall be placed on projects for these purposes); judicial reform, employment generation; health, education, and other social services; infrastructure repair; and credits and other support for the private sector (principally for small and medium sized businesses).

(3) For purposes of subsection—

(A) the term "agrarian reform" means projects assisting or enhancing the abilities of agencies, cooperatives, and farms to implement land reform decrees in El Salvador, notwithstanding section 620(g) of the Foreign Assistance Act of 1961; and

(B) the term "judicial reform" means projects assisting or enhancing the abilities of agencies of the Salvadoran Government to investigate and prosecute politically motivated violence.

(f) DEVELOPMENT ASSISTANCE.—Of the amounts available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, $79,600,000 for fiscal year 1986 and $79,600,000 for fiscal year 1987 shall be available only for El Salvador.

(g) SUSPENSION OF ASSISTANCE IF A MILITARY COUP OCCURS.—All assistance authorized by this Act which is allocated for El Salvador shall be suspended if the elected President of that country is deposed by military coup or decree.

SEC. 703. ASSISTANCE FOR GUATEMALA.

(a) CONDITIONS ON MILITARY ASSISTANCE AND SALES [28].—For fiscal years 1986 and 1987, assistance may be provided for Guatemala

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[28] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99-190, 99 Stat. 1302), provided the following appropriation for fiscal year 1986 (assuming certification requirements are met):

"* * * That not more than $553,900,000 of the funds made available under this paragraph shall be available at concessional rates of interest: *Provided further,* That all country and fund-

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under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance) and sales may be made and financing may be provided for Guatemala under the Arms Export Control Act (relating to foreign military sales) only if the President makes the following certifications to the Congress:

(1) For fiscal year 1986, an elected civilian government is in power in Guatemala and has submitted a formal written request to the United States for the assistance, sales, or financing to be provided.

(2) For both fiscal years 1986 and 1987, the Government of Guatemala made demonstrated progress during the preceding year—

(A) in achieving control over its military and security forces,

(B) toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses by such forces of internationally recognized human rights, and

(C) in respecting the internationally recognized human rights of its indigenous Indian population.

(b) CONSTRUCTION EQUIPMENT AND MOBILE MEDICAL FACILITIES AND RELATED TRAINING.—If the conditions specified in subsection (a) are met, Guatemala may be provided with the following for fiscal years 1986 and 1987 (in addition to such other assistance, sales, or financing as may be provided for Guatemala):

(1) Sales of construction equipment and mobile medical facilities to assist in development programs that will directly assist the poor in Guatemala.

(2) Sales of training, to be provided outside of Guatemala, which is related to the sales described in paragraph (1).

(3) A total for both fiscal years 1986 and 1987 of no more than $10,000,000 in credits under the Arms Export Control Act for sales described in paragraphs (1) and (2).

Such sales and credits shall be provided only to enable the military forces of Guatemala to obtain equipment and training for civilian engineering and construction projects and mobile medical teams, which would not be used in the rural resettlement program.

(c) PROHIBITION ON FURNISHING WEAPONS.—Funds authorized to be appropriated by title I of this Act may not be used for the procurement by Guatemala of any weapons or ammunition.

(d) SUSPENSION OF ASSISTANCE IF A MILITARY COUP OCCURS.—All assistance authorized by this Act which is allocated for Guatemala shall be suspended if the elected civilian government of that country is deposed by military coup or decree.

(e) RURAL RESETTLEMENT PROGRAM.—Assistance provided for Guatemala for the fiscal year 1986 and fiscal year 1987 under chapter 1 of part I (relating to development assistance) or under chapter

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ing level changes in requested concessional financing allocations shall be submitted through the regular notification process of the Committee on Appropriations."

Sec. 538 of the 1987 Act (Public Law 99-591, 100 Stat. 3341-232) provided the following:

"Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations."

4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961—

(1) may not be provided to the Government of Guatemala for use in its rural resettlement program; and

(2) shall be provided through private and voluntary organizations to the maximum extent possible.

(f) INVITATION FOR ICRC TO VISIT GUATEMALA.—The Congress calls upon the President to urge the Government of Guatemala to allow the International Committee of the Red Cross—

(1) to conduct an unimpeded visit to Guatemala in order to investigate humanitarian needs in that country and to report on human rights abuses in that country; and

(2) to investigate the possibilities of its providing humanitarian services in that country.

(g) RELATIONS BETWEEN BELIZE AND GUATEMALA.—It is the sense of the Congress that the United States should use its good offices and influence to encourage the Government of Guatemala to recognize the independence of Belize and to enter into a mutual nonaggression treaty with Belize.

(h) HUMAN RIGHTS GROUPS IN GUATEMALA.—(1) The Congress finds that—

(A) the Group for Mutual Support was formed in 1984 to protest the disappearances of Guatemalan civilians;

(B) the Group for Mutual Support has carried out its work in a peaceful, non-ideological manner, and is the only indigenous human rights group operating in Guatemala; and

(C) two of the Group's six steering committee members, Hector Gomez and Maria Rosario Godyo[29] de Cuevas, were recently killed.

(2) It is the sense of the Congress that—

(A) human rights groups in Guatemala, particularly the Group for Mutual Support, should be allowed to carry out their work against human rights abuses with the full cooperation, protection, and support of the Government of Guatemala; and

(B) whether the Government of Guatemala allows human rights groups, including the Group for Mutual Support, to carry out their work should be taken into account by the United States in determining whether there is human rights progress in Guatemala.

SEC. 704. REFUGEES IN HONDURAS.

Funds authorized to be appropriated by this Act and funds authorized to be appropriated for the "Migration and Refugee Assistance" account for fiscal years 1986 and 1987—

(1) which are to be used for refugee assistance or other assistance for Nicaraguan Indian refugees in Honduras shall be channeled, to the maximum extent possible, through the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, the Intergovernmental Committee for Migration, or other established and recognized international refugee relief organizations; and

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[29] Should read "Godoy".

(2) may not be used to facilitate the involuntary repatriation of Salvadoran refugees who are in Honduras.

SEC. 705. PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI.[30]

(a) USE OF PVOs.—To the maximum extent practicable, assistance for Haiti under chapter 1 of part I (relating to development assistance) and under chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

(a) USE OF PVOs.—To the maximum extent practicable, assistance for Haiti under chapter 1 of part I (relating to development assistance) and under chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

(b) CONDITIONS ON ASSISTANCE.—Funds available for fiscal year 1986 and for fiscal year 1987 to carry out chapter 1 of part I (relating to development assistance), chapter 4 of part II (relating to the economic support fund), or chapter 5 of part II (relating to international military education and training) of the Foreign Assistance Act of 1961 may be obligated for Haiti only if the President determines that the Government of Haiti—

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years); and

(3) is making progress toward improving the human rights situation in Haiti and progress toward implementing political reforms which are essential to the development of democracy in Haiti, such as progress toward the establishment of political parties, free elections, free labor unions, and freedom of the press.

(c) REPORTS TO THE CONGRESS.—Not later than one year after the date of the enactment of this Act and one year thereafter, the

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[30] Title I, Chapter V of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99-349, 100 Stat. 726), provided:

"ASSISTANCE FOR HAITI

"Of the funds made available in title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), subject to the notification process of the Committees on Appropriations, up to $21,700,000 shall be made available for assistance to Haiti. Of this amount, $1,700,000, or the equivalent amount in local currencies, may be transferred to the Inter-American Foundation for use by the Foundation for programs for Haiti. The assistance made available pursuant to this paragraph shall be used to promote the transition to democracy by means such as generating local currency for use for literacy projects, rural development, and job creation. The assistance provided for Haiti pursuant to this paragraph shall be in addition to the assistance previously allocated for Haiti.

"It is the sense of the Congress that the United States Government should cooperate with the Government of Haiti in recovering for the Haitian people the wealth that was illegally obtained by former president Jean-Claude Duvalier and his former government ministers and associates through diversions of funds and property, regardless of whether that wealth is located in the United States or abroad.

"Notwithstanding any limitations on assistance to Haiti contained in Public Law 98-473 or Public Law 99-83, funds in the amount of $750,000 previously appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961, as amended, may be made available for Haiti to carry out such purposes: *Provided,* That none of the funds made available pursuant to this paragraph may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided further,* That the funds provided under this paragraph shall be made available only to provide nonlethal military assistance for Haiti."

President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each paragraph of subsection (b).

(d) ASSISTANCE IN HALTING ILLEGAL EMIGRATION FROM HAITI.—Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961 (relating to police training), funds made available under such Act may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

(e) LIMITATION ON MAP AND FMS FINANCING.—Assistance may not be provided for Haiti for fiscal year 1986 or fiscal year 1987 under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance) or under the Arms Export Control Act (relating to foreign military sales financing), except for necessary transportation, maintenance, communications, and related articles and services to enable the continuation of migrant and narcotics interdiction operations.

(f) LITERACY AND OTHER EDUCATION PROGRAMS.—Of the amounts authorized to be appropriated to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) which are allocated for Haiti, $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 shall be available only for literacy and other education programs in Haiti.

SEC. 706. MILITARY ASSISTANCE FOR PARAGUAY.

For the fiscal years 1986 and 1987, none of the funds authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance) or to carry out the Arms Export Control Act (relating to foreign military sales financing) may be used for assistance for Paraguay unless the President certifies to the Congress that the Government of Paraguay has ended the practice of torture and abuse of individuals held in detention by its military and security forces and has instituted procedures to ensure that those arrested promptly charged and brought to trial.

SEC. 707. ASSISTANCE FOR PERU.[31]

(a) HUMAN RIGHTS TRAINING IN IMET PROGRAMS.—Respect for internationally recognized human rights shall be an important component of the training provided for Peru under chapter 5 of part II of the Foreign Assistance Act of 1961 for fiscal year 1986 and for fiscal year 1987.

(b) STRENGTHENING THE PERUVIAN JUDICIAL SYSTEM.—Of the amount authorized to be appropriated by this Act to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 shall be used to strengthen the judicial system in Peru under section 534 of the Foreign Assistance Act of 1961 (relating to administration of justice).

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[31] See sec. 612 of this Act.

SEC. 709. COMPREHENSIVE REPORTS ON ASSISTANCE FOR LATIN AMERICA AND THE CARIBBEAN.

(a) REQUIREMENT FOR COMPREHENSIVE ACCOUNTING OF ASSISTANCE.—In the annual reports required by section 634 of the Foreign Assistance Act of 1961, the President shall provide to the Congress a full, complete, and detailed accounting of all assistance provided during the fiscal years 1986 and 1987 for Latin America and the Caribbean under the Foreign Assistance Act of 1961 and the Arms Export Control Act.

(b) INFORMATION TO BE INCLUDED.—The report provided pursuant to subsection (a) shall include for each fiscal year, among other things, the following with respect to each authorization account:

(1) The specific projects and other activities carried out in each country.

(2) The number of persons from each country who were provided with training, and the types of training provided.

(3) The defense articles and defense services provided for each country.

(4) The types of goods and commodities provided to each country for economic stabilization purposes under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), and a copy of each agreement for the furnishing of any assistance under that chapter.

(5) The amounts of local currency generated by United States assistance to each country, the uses of those currencies, and the total amount of those currencies still available for use as of the time of the report.

(6) A report on any transfers or reprogrammings of funds, and a description of how transferred or reprogrammed funds modified the amounts requested for each account.

(7) A report on the funds which have been obligated but remain unexpended for each country in each account.

(8) An analysis of the amount of funds and programs provided through nongovernmental as contrasted to governmental channels.

SEC. 710. USE OF PRIVATE AND VOLUNTARY ORGANIZATIONS.

To the maximum extent practicable, assistance under chapter 1 of part I (relating to development assistance) and chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 for countries in Latin America and the Caribbean should be provided through private and voluntary organizations which have a proven record of development assistance efforts overseas.

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SEC. 713. USE OF EMPLOYEE STOCK OWNERSHIP PLANS IN DEVELOPMENT EFFORTS.

(a) FINDINGS.—The Congress declares that—

(1) employee stock ownership plans in industrial, farming, banking, and other enterprises in Central America and the Caribbean can be an important component in achieving United States goals in Central America and the Caribbean; and

(2) employee stock ownership plans should be used as an instrument in financing growth and transfers of equity in the

region, in reorganizing state-owned enterprises into viable employee-owned businesses, in expanding political and economic pluralism, and in strengthening democratic institutions in the region.

(b) PLAN FOR EXPANDED USE OF ESOPs.—The President is urged to develop a plan for the expanded use of employee stock ownership plans in development efforts of the United States in Central America and the Caribbean, with an emphasis on policy and infrastructural changes needed to encourage voluntary employee stock ownership initiatives by multinational corporations and other private sector enterprises which have investments, are considering making new investments, or are interested in management contracts and joint ventures in the region.

(c) TASK FORCE.—To assist in this effort, there is established a Presidential Task Force on Project Economic Justice (hereafter in this section referred to as the "Task Force"), which shall consist of individuals appointed by the President who are distinguished leaders of the private sector of the United States, including significant representation of union representatives of workers in successful companies with employee stock ownership plans and of nationally recognized experts in all phases of design, implementation, and operation of employee stock ownership plans. The President shall designate one of the members of the Task Force to serve as Chairman. The Chairman of the Task Force shall appoint a volunteer fundraising committee, and all the expenses of the Task Force shall be paid without the use of public funds.

(d) REPORT.—Not later than December 31, 1985, the Task Force shall prepare and transmit to the President and the Congress a report on the expanded use of employee stock ownership plans in the development efforts of the United States in Central America and the Caribbean, including specific recommendations on strategies for using employee stock ownership plans as a means of accelerating the rate of private sector capital formation in Central America and the Caribbean that is systematically linked to expanding ownership and profit-sharing opportunities for all employees.

SEC. 714. INTERNATIONAL ADVISORY COMMISSION FOR THE CARIBBEAN REGION.

(a) FINDINGS.—The Congress finds that—

(1) many of the social, agricultural, educational, and economic problems which confront nations in the Caribbean Region result primarily from social and economic injustice and inadequate economic and agricultural development;

(2) such problems are not addressed sufficiently by current United States policies toward that region;

(3) the development of the Caribbean Region is of vital importance to the economic and strategic interests of the United States and its allies; and

(4) for purposes of defining development plans, providing an international forum for Caribbean Region development issues, and providing expert advice to donor-aid countries, an international commission is needed as the prime institution for promoting economic cooperation and development in the Caribbean Region.

(b) INVITATIONS TO PARTICIPATE IN COMMISSION.—

(1) INVITATION TO CARIBBEAN COUNTRIES.—The President may invite the countries which comprise the Caribbean Region to participate with the United States in a commission to be known as the International Advisory Commission for the Caribbean Region (hereafter in this section referred to as the "Commission").

(2) INVITATION TO CERTAIN OTHER COUNTRIES.—The President may also invite the Netherlands, the United Kingdom, France, Canada, the Commonwealth of Puerto Rico, and the Virgin Islands to participate in the Commission.

(c) FUNCTIONS OF COMMISSION.—It is the sense of the Congress that the Commission should—

(1) examine social, agricultural, educational, and economic issues which affect the Caribbean Region; and

(2) consult with leaders of the countries in the Caribbean Region and with representatives from public and private organizations involved in matters related to the Caribbean Region in order to evaluate the problems and needs of such countries.

(d) FUNDING FOR ORGANIZATIONAL MEETING OF COMMISSION.—Of the funds authorized to be appropriated to carry out section 106 of the Foreign Assistance Act of 1961 (relating to development assistance for energy, private and voluntary organizations, and selected development activities), up to a total of $100,000 for fiscal years 1986 and 1987 may be made available to—

(1) pay reasonable administrative expenses associated with the organizational meeting of the Commission; and

(2) pay reasonable travel and lodging expenses incurred by commissioners from other participant governments incident to their attendance at the organizational meeting of the Commission.

(e) REQUEST TO CONGRESS RELATING TO UNITED STATES PARTICIPATION IN THE COMMISSION.—The President should provide cost estimates and request authorization from the Congress in order to provide for the participation of the United States in the Commission (other than United States participation associated with the organizational meeting).

(f) APPOINTMENT OF UNITED STATES REPRESENTATIVE AND OBSERVERS.—Upon the creation of the Commission—

(1) the President should consider appointing one individual as the United States representative to the Commission;

(2) the Speaker of the House of Representatives should consider appointing two Members of the House, one from each major political party, as observers at the Commission; and

(3) the majority leader of the Senate should consider appointing two Members of the Senate, one from each major political party, as observers at the Commission.

SEC. 715.[32] * * *

SEC. 716. RURAL ELECTRIFICATION.

It is the sense of the Congress that funds appropriated for the fiscal years 1986 and 1987 under section 103(a)(2) of the Foreign Assistance Act of 1961 (relating to development assistance for agriculture, rural development, and nutrition) should be used for a comprehensive rural electrification program in Central America in order to establish conditions of stability and a foundation for economic development.

SEC. 717. FACILITATING INTERNATIONAL COMMERCE THROUGH MEXICO.

(a) FINDING.—Recognizing that increased levels of balanced international trade are an essential component in an economic development program for the region and that the United States has traditionally been the most important trading partner for each of the nations of Latin America, it is the sense of the Congress that current procedures and laws of the Government of Mexico, and practices of its officials, constitute a significant impediment to the transit of vehicles carrying the commodities of international trade through Mexican territory.

(b) NEGOTIATIONS AND COOPERATIVE STEPS CONCERNING TRANSIT.—As the Government of Mexico has played a valuable role in assisting and encouraging the economic and political development of the region, and in offering advice to the United States as to constructive policies this nation might pursue with respect to peace and prosperity in the area, the Secretary of State, acting independently or with representatives of other Latin America nations, shall initiate negotiations with the Government of Mexico aimed at eliminating or reducing those impediments to international trade. The agenda for such negotiations should include discussions to encourage the Government of Mexico to accede to existing international custom conventions on international in-transit shipments. Such actions are to be taken in concert with the institution by the United States, and the nations of the region where the transiting shipments originate, of appropriate and cooperative steps to make sealed-truck, no-inspection transit administratively acceptable to the Government of Mexico and other transited countries. Similar bilateral or multilateral negotiations by the Secretary of State with nations respecting the same international customs conventions is also encouraged.

(c) REPORT.—The Secretary of State shall report the status of these negotiations to Congress by January 1, 1986.

SEC. 718. CONDEMNING HUMAN RIGHTS VIOLATIONS AND THE SUBVERSION OF OTHER GOVERNMENTS BY THE GOVERNMENT OF CUBA.

(a) CONDEMNATION OF CERTAIN ACTION BY THE GOVERNMENT OF CUBA.—The Congress condemns—

(1) the consistent pattern of gross violations of internationally recognized human rights by the Cuban Government, including—

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[32] Sec. 715 amended sec. 726 of the International Security and Development Cooperation Act, 1981. For text, see page 416.

(A) cruel, inhumane, and degrading treatment and punishment of prisoners;

(B) the suppression of free speech, press, and assembly; and

(C) restrictions on religious activity and the freedom to emigrate; and

(2) the provision by the Cuban government of material aid and personnel support for the purposes of subversion.

(b) CALL UPON THE GOVERNMENT OF CUBA.—The Congress calls upon the Government of Cuba to restore civil liberties and cease in the violation of human rights of the Cuban people and cease the subversion of other governments through material and personnel support.

SEC. 719. REPORTS ON FOREIGN DEBT IN LATIN AMERICA.

(a) FINDINGS.—The Congress finds that—

(1) the foreign debt of Latin American countries has soared from $27,000,000,000 in 1970 to over $350,000,000,000 in 1983;

(2) the foreign debt of Latin American countries is a serious obstacle to their economic progress, threatens their stability, and endangers the democratic processes in those nations;

(3) the economic and political futures of many of the Latin American countries hang in the balance and depend upon a successful resolution of the foreign debt crisis; and

(4) the confidence of the American people in the United States system of banking is also involved in a successful resolution of the foreign debt crisis.

(b) REPORT.—Not later than January 1, 1986, the Secretary of State shall prepare and transmit to the Congress a report on—

(1) the magnitude of the foreign debt crisis in the Western Hemisphere;

(2) the impact of the foreign debt crisis on the economies of the countries of Latin America;

(3) the degree to which the national security interests of the United States are implicated in this crisis;

(4) the steps being taken and the policy being pursued by the United States aimed at dealing with this crisis;

(5) the degree to which the foreign debt crisis affects the system of banking in the United States; and

(6) the steps being taken and the policy being pursued by the United States Government aimed at dealing with this crisis.

SEC. 720. ECONOMIC ASSISTANCE FOR URUGUAY.

Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), $15,000,000 for fiscal year 1986 and $15,000,000 for fiscal year 1987 shall be available only for Uruguay.

SEC. 721. CANADIAN EXPORTS TO THE UNITED STATES.

(a) CATTLE AND HOGS.—(1) The Congress finds that—

(A) livestock prices have been in decline for some time due to excessive supply partially caused by dramatic increases in importation of live cattle and hogs from Canada, which has increased by 1,000 percent in the last decade in the case of hogs alone;

(B) American livestock producers are suffering from the same general economic crisis affecting all of agriculture, and many will face liquidation or foreclosure in the near future; and

(C) the disparity between the United States and the Canadian dollar amounts to 32 to 34 percent and results in even further increases in Canadian hogs and cattle being imported into the United States.

(2) Therefore, it is the sense of the Congress that the President should direct appropriate officials of the executive branch, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward immediate reduction in the Canadian export of cattle and hogs to the United States.

(b) SOFTWOOD TIMBER.—(1) The Congress finds that—

(A) softwood timber prices have been in decline for some time due to excessive supply partially caused by dramatic increases in importation of processed softwood timber from Canada, which has increased from 18 percent of the United States market in the last two years to 35 to 40 percent today;

(B) American timber producers are suffering from this economic crisis, and the difficulty in acquiring timber from the National Forest System; and

(C) the disparity between the United States and the Canadian dollar amounts to 32 to 34 percent and results in even further increases in processed softwood timber being imported into the United States.

(2) Therefore, it is the sense of the Congress that the President should direct appropriate officials of the executive branch, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward immediate reduction in the Canadian export of softwood timber to the United States.

SEC. 722. NICARAGUA.

(a) SETTLEMENT OF THE CONFLICT.—The Congress—

(1) strongly supports national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful settlement to the Nicaraguan conflict; and

(2) finds that the United States should, in assisting efforts to reach comprehensive and verifiable final agreements based on the Contadora Document of Objectives, encourage the Government of Nicaragua to pursue a dialogue with the armed opposition forces and their political representatives for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections.

(b) UNITED STATES CONCERNS ABOUT NICARAGUAN FOREIGN AND DOMESTIC POLICIES.—The Congress finds and declares the following:

(1) Despite positive actions by the Congress signaling support for negotiated solutions to conflicts in Central America, there are disturbing trends in Nicaragua's foreign and domestic policies, including—

(A) President Daniel Ortega's April 1985 trip to the Soviet Union at a time when the Congress signaled its strong disapproval of increasing Nicaraguan-Soviet ties;

(B) the Sandinista government's close military ties with Cuba, the Soviet Union, and its Warsaw Pact allies; the disappointing and insufficient reduction of the number of Cuban advisors in Nicaragua by only 100 out of an approximately 2,500; and the continuing military buildup that Nicaragua's neighbors consider threatening;

(C) the Sandinista government's curtailment of individual liberties, political expression, freedom of worship, and the independence of the media;

(D) the subordination of military, judicial, and internal security functions to the ruling political party; and

(E) the Sandinista government's efforts to export its influence and ideology.

(2) If Nicaragua does not address the concerns described in paragraph (1), the United States has several options to address this challenge to peace and stability in the region, including political, diplomatic, and trade sanctions. In addition, the United States—

(A) should through appropriate regional organizations, such as the Organization of American States, seek to maintain multilateral pressure on Nicaragua to address these concerns; and

(B) should, if called upon to do so, give serious consideration to supporting any sanctions adopted by such an organization.

(3) In assessing whether or not progress is being made in addressing these concerns, the Congress will expect prompt and significant initiatives by the Government of Nicaragua such as—

(A) the removal of foreign military advisors from Nicaragua;

(B) the end to Sandinista support for insurgencies in other countries in the region, including the cessation of military supplies to the rebel forces fighting the democratically elected government in El Salvador;

(C) restoration of individual liberties, political expression, freedom of worship, and the independence of the media; and

(D) progress toward international reconciliation and a pluralistic democratic system, including steps to liberalize institutions in order to allow the internal opposition in Nicaragua to become a viable partner in the Nicaraguan political process.

(c) RESOLUTION OF THE CONFLICT IN NICARAGUA.—

(1) BASIS FOR POLICY.—The Congress finds that—

(A) the people of Nicaragua are suffering the horrors of a fierce armed conflict that is causing grave hardships and loss of life, has thrown the country into a serious political, social, and economic upheaval, and is of serious concern to the nations of the region and to the United States;

(B) this conflict is fundamentally a continuation of efforts of the Nicaraguan people to attain a representative government at peace with its neighbors, efforts which began under the Somoza regime; and

(C) the United States recognized these noble aspirations of the Nicaraguan people in the June 23, 1979, resolution of the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs of the Organization of American States, which reads as follows:

"WHEREAS:

"The people of Nicaragua are suffering the horrors of a fierce armed conflict that is causing grave hardships and loss of life, and has thrown the country into a serious political, social and economic upheaval;

"The inhumane conduct of the dictatorial regime governing the country, as evidenced by the report of the Inter-American Commission on Human Rights, is the fundamental cause of the dramatic situation faced by the Nicaraguan people; and

"The spirit of solidarity that guides Hemisphere relations places an unavoidable obligation on the American countries to exert every effort within their power, to put an end to the bloodshed and to avoid the prolongation of this conflict which is disrupting the peace of the Hemisphere;

"THE SEVENTEENTH MEETING OF CONSULTATION OF MINISTERS OF FOREIGN AFFAIRS,

"DECLARES:

"That the solution of the serious problem is exclusively within the jurisdiction of the people of Nicaragua.

"That in the view of the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs this solution should be arrived at on the basis of the following:

"1. Immediate and definitive replacement of the Somoza regime.

"2. Installation in Nicaraguan territory of a democratic government, the composition of which should include the principal representative groups which oppose the Somoza regime and which reflects the free will of the people of Nicaragua.

"3. Guarantee of the respect for human rights of all Nicaraguans without exception.

"4. The holding of free elections as soon as possible, that will lead to the establishment of a truly democratic government that guarantees peace, freedom, and justice.

"RESOLVES:

"1. To urge the member states to take steps that are within their reach to facilitate an enduring and peaceful solution of the Nicaraguan problem on the bases set forth above, scrupulously respecting the principle of nonintervention and abstaining from any action that might be in conflict with the above bases or be incompatible with a peaceful and enduring solution to the problem.

"2. To commit their efforts to promote humanitarian assistance to the people of Nicaragua and to contribute to the social and economic recovery of the country.

"3. To keep the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs open while the present situation continues.".

(2) THE GOVERNMENT OF NICARAGUA.—The Congress further finds that—

(A) the Government of National Reconstruction of Nicaragua formally accepted the June 23, 1979, resolution as a basis for resolving the Nicaraguan conflict in its "Plan to Achieve Peace" which was submitted to the Organization of American States on July 12, 1979;

(B) the June 23 1979, resolution and its acceptance by the Government of National Reconstruction of Nicaragua was the formal basis for the removal of the Somoza regime and the installation of the Government of National Reconstruction;

(C) the Government of National Reconstruction, now known as the Government of Nicaragua and controlled by the Frente Sandinista (the FSLN), has flagrantly violated the provisions of the June 23, 1979, resolution, the rights of the Nicaraguan people, and the security of the nations in the region, in that it—

(i) no longer includes the democratic members of the Government of National Reconstruction in the political process;

(ii) is not a government freely elected under conditions of freedom of the press, assembly, and organization, and is not recognized as freely elected by its neighbors, Costa Rica, Honduras, and El Salvador;

(iii) has taken significant steps towards establishing a totalitarian Communist dictatorship, including the formation of FSLN neighborhood watch committees and the enactment of laws that violate human rights and grant undue executive power;

(iv) has committed atrocities against its citizens as documented in reports by the Inter-American Commission on Human Rights of the Organization of American States;

(v) has aligned itself with the Soviet Union and Soviet allies, including the German Democratic Republic, Bulgaria, Libya, and the Palestine Liberation Organization;

(vi) has committed and refuses to cease aggression in the form of armed subversion against its neighbors in violation of the Charter of the United Nations, the Charter of the Organization of American States, the Inter-American Treaty of Reciprocal Assistance, and the 1965 United Nations General Assembly Declaration on Intervention; and

(vii) has built up an army beyond the needs of immediate self-defense, at the expense of the needs of the Nicaraguan people and about which the nations of the region have expressed deepest concern.

(3) THE NICARAGUAN DEMOCRATIC OPPOSITION.—The Congress further finds that—

(A) as a result of these violations, the Government of Nicaragua has lost the support of virtually all independent sectors of Nicaraguan society who initially supported the removal of the Somoza regime (including democratic political parties of the left, center, and right; the leadership of the Church; free unions; and the business, farmer, and professional sectors) and who still seek democracy, reject the rule of the Frente Sandinista, and seek the free elections promised in 1979;

(B) the Nicaraguan political opposition has joined with the armed opposition groups in issuing the San Jose Manifesto of March 1, 1985, calling for a national dialogue under mediation by the Nicaraguan Bishops Conference to peacefully attain the fulfillment of the Government of Nicaragua's commitments to the Organization of American States, including "the democratization of Nicaragua, conscious that democracy is the only means to carry out an authentic revolution and secure our national identity and sovereignty";

(C) on June 12, 1985, in San Salvador, El Salvador, the political and armed opposition groups representing the entire democratic political spectrum of Nicaragua formed the United Nicaraguan Opposition and affirmed their "historical commitment to achieve for Nicaragua the reconciliation of her children, to establish the foundation for democracy and the moral and material reconstruction of the nation"; and

(D) the United Nicaraguan Opposition further declared its intention to "give priority at all times to a political solution which will ease the suffering of our people".

(4) Concerns in the region and United States responsibilities.—The Congress further finds that—

(A) Nicaragua's neighbors, Costa Rica, El Salvador, and Honduras, have expressed, individually and through the Contadora process, their belief that their peace and freedom is not safe so long as the Government of Nicaragua excludes from power most of Nicaragua's political leadership and is controlled by a small sectarian party, without regard to the will of the majority of Nicaraguans; and

(B) the United States, given its role in the installation of the current Government of Nicaragua, has a special responsibility regarding the implementation of the commitments made by that Government in 1979, especially to those who fought against Somoza to bring democracy to Nicaragua with United States support.

(5) Resolution of the conflict.—The Congress—

(A) condemns the Government of Nicaragua for violating its solemn commitments to the Nicaraguan people, the United States, and the Organization of American States;

(B) affirms that the Government of Nicaragua will be regarded as having achieved political legitimacy when it fulfills its 1979 commitment to the Organization of American States to implement genuinely democratic elections, under the supervision of the Organization of American States, in which all elements of the Nicaraguan resistance can peacefully participate under conditions recognized as necessary for free elections by international bodies;

(C) urges the Government of Nicaragua to enter a national dialogue, as proposed by the Nicaraguan democratic resistance in San Jose, Costa Rica, on March 1, 1985, under mediation by the Nicaraguan Bishops Conference in order to peacefully resolve the current crisis through internationally recognized elections in which all elements of Nicaraguan society can freely participate;

(D) supports the Nicaraguan democratic resistance in its efforts to peacefully resolve the Nicaraguan conflict and to achieve the fulfillment of the Government of Nicaragua's solemn commitments to the Nicaraguan people, the United States, and the Organization of American States;

(E) supports efforts by the Contadora nations, the Organization of American States, and other appropriate regional organizations to maintain multilateral pressure on Nicaragua to fulfill its commitments; and

(F) requests that the Secretary of State transmit the text of this subsection to the Foreign Ministers of the member states of the Organization of American States.

(d) PROHIBITION RELATING TO MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA.—Notwithstanding any other provision of law, no funds authorized to be appropriated or otherwise made available by this Act (except the funds authorized to be appropriated in this section), by the Foreign Assistance Act of 1961, or by the Arms Export Control Act shall be used to provide assistance of any kind, either directly or indirectly, to any person or group engaging in an insurgency or other act of rebellion against the Government of Nicaragua. The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under this Act or the purchase of defense articles and services under the Arms Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insurgency or other act of rebellion against the Government of Nicaragua.

(e) LIMITATION ON USE OF FUNDS AGAINST NICARAGUA.—None of the funds authorized to be appropriated in this or any other Act can be used to fund directly, or indirectly, activities against the Government of Nicaragua which have not been authorized by, or pursuant to, law and which would place the United States in violation of our obligations under the Charter of the Organization of American States, to which the United States is a signatory, or under international law as defined by treaty commitments agreed to, and ratified by, the Government of the United States.

(f) FOOD AID TO THE NICARAGUAN PEOPLE.—In cooperation with Cardinal Miguel Obando y Bravo and private and voluntary organizations, the President should explore and promote means for providing food aid to the Nicaraguan people through private and voluntary organizations and the Catholic Church.

(g) HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE.—(1) Effective upon the date of enactment of this Act, there are authorized to be appropriated $27,000,000 for humanitarian assistance to the Nicaraguan democratic resistance. Such assistance shall be provided to such department or agency of the United States as the President shall designate, except the Central Intelligence Agency or the Department of Defense.

(2) The assistance authorized by this subsection is authorized to remain available for obligation until March 31, 1986.

(3) One-third of the assistance authorized by this subsection shall be available for obligation at any time after the appropriation of funds pursuant to such authorization, an additional one-third shall be available for obligation upon submission of the first report required by subsection (j), and the remaining one-third shall be available for obligation upon submission of the second such report.

(4) The President shall establish appropriate procedures to ensure that any humanitarian assistance provided by the United States Government to the Nicaraguan democratic resistance is used only for the intended purpose and is not diverted (through barter, exchange, or any other means) for acquisition of weapons systems, ammunition, or other equipment, vehicle, or material which can be used to inflict serious bodily harm or death.

(5) As used in this subsection, the term "humanitarian assistance" means the provision of food, clothing, medicine, and other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

(h) ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT.—Effective upon the date of enactment of this Act, there are authorized to be appropriated $2,000,000, which are authorized to remain available until expended, for payment by the Secretary of State for the expenses arising from implementation by the Contadora nations (Mexico, Panama, Colombia, and Venezuela) of an agreement among the countries of Central America based on the Contadora Document of Objectives of September 9, 1983, including peacekeeping, verification, and monitoring systems.

(i) POLICIES WITH RESPECT TO NICARAGUA.—The President is hereby urged and requested—

(1) to pursue vigorously the use of diplomatic and economic measures to resolve the conflict in Nicaragua, including simultaneous negotiations—

(A) to implement the Contadora Document of Objectives of September 8, 1983; and

(B) to develop, in close consultation and cooperation with other nations, trade and economic measures to complement such policies of the United States and to encourage the Government of Nicaragua to take the necessary steps to resolve the conflict;

(2) to suspend the economic sanctions imposed by the President on May 1, 1985, and the United States military maneuvers in Honduras and off the coast of Nicaragua, if the Government of Nicaragua agrees—

(A) to a cease fire,

(B) to open a dialogue with all elements of the opposition, including the Nicaraguan democratic resistance, and

(C) to suspend the state of emergency in Nicaragua;

(3) to call upon the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) to resume bilateral discussions with the Government of Nicaragua with a view to encouraging—

(A) a church-mediated dialogue between the Government of Nicaragua and all elements of the opposition, including the Nicaraguan democratic resistance, in support of internal reconciliation as called for by the Contadora Document of Objectives; and

(B) a comprehensive, verifiable agreement among the nations of Central America, based on the Contadora Document of Objectives.

(j) Reports.—The President shall submit a report to the Congress 90 days after the date of enactment of this Act, and every 90 days thereafter, on any actions taken to carry out subsections (g) and (h). Each such report shall include—

(1) a detailed statement of any progress made in reaching a negotiated settlement referred to in subsection (i)(1), including the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide humanitarian assistance with the funds provided pursuant to subsection (g); and

(3) a discussion of the alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to comply with the request referred to in subsection (i)(3).

(k) Submission of Request for Additional Assistance for the Central America Peace Process.—If the President determines at any time after the enactment of this Act that—

(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have produced an agreement, or show promise of producing an agreement, or

(2) other trade and economic measures will assist in a resolution of the conflict, or to stabilization in the region,

the President may submit to the Congress a request for budget and other authority to provide additional assistance for the furtherance of the Central America peace process.

(l) Statement To Be Included.—The President's request pursuant to subsection (k) shall include a detailed statement as to progress made to resolve the conflict in the region.

(m) Consultation With the Congress.—In formulating a request pursuant to subsection (k), the President shall consult with the Congress.

(n) House Procedures.—(1) The provisions of this subsection apply, during the 99th Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (k).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (k)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Central America peace process that the President requested pursuant to the International Security and Development Cooperation Act of 1985, notwithstanding section 10 of Public Law 91672.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint Resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.".

(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(6) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(o) SENATE PROCEDURES.—A joint resolution which is introduced in the Senate within 3 calendar days after the day on which the Congress receives a Presidential request described in subsection (k) and which, if enacted, would grant the President the authority to take any or all of the actions described in subsection (k) shall be considered in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(1) references in such paragraphs to the Committees on Appropriations of the Senate shall be deemed to be references to the appropriate committee or committees of the Senate; and

(2) amendments to the joint resolution are in order.

(p) [33] * * * [Repealed—1987]

(q) STATEMENT TO BE INCLUDED.—The President's request pursuant to subsection (p) shall include a detailed statement as to why the negotiations or other measures have failed to resolve the conflict in the region.

(r) CONSULTATION WITH THE CONGRESS.—In formulating a request pursuant to subsection (p), the President shall consult with the Congress.

(s) [34] * * * [Repealed—1987]

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[33] Subsec. (p) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100-202, 101 Stat. 1329-441). It formerly read as follows:

"SUBMISSION OF REQUEST FOR ADDITIONAL ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE.—If the President determines at any time after the enactment of this Act that—

"(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have failed to produce an agreement, or

"(2) other trade and economic measures have failed to resolve the conflict

the President may submit to the Congress a request for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance."

[34] Subsec. (s) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100-202, 101 Stat. 1329-441). It formerly read as follows:

"HOUSE PROCEDURES.—(1) The provisions of this subsection apply, during the 99th Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (p).

"(2) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (p)—

"(A) the matter after the resolving clause of which is as follows: 'That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to the International Security and Development Cooperation Act of 1985, notwithstanding section 10 of Public Law 91672.';

"(B) which does not have a preamble; and

"(C) the title of which is as follows: 'Joint Resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.'.

"(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

"(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

"(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points or order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

"(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

"(C) An amendment to the joint resolution is not in order.

"(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

"(6) As used in this subsection, the term 'legislative day' means a day on which the House is in session."

(t)[35] * * * [Repealed—1987]

(u) CONGRESSIONAL RULEMAKING POWERS.—Subsections (n), (o), (s), and (t) are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule in the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

TITLE VIII—AFRICA

SEC. 801. BALANCE-OF-PAYMENTS SUPPORT FOR COUNTRIES IN AFRICA.

(a) ESF COMMODITY IMPORT AND SECTOR PROGRAMS.—Agreements with countries in Africa which provide for the use of funds made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for the fiscal years 1986 and 1987 to finance imports by those countries (under commodity import programs or sector programs) shall require that those imports be used to meet long-term development needs in those countries in accordance with the following criteria:

(1) Spare parts and other imports shall be allocated on the basis of evaluations, by the agency primarily responsible for administering part I of that Act, of the ability of likely recipients to use such spare parts and imports in a maximally productive, employment generating, and cost effective way.

(2) Imports shall be coordinated with investments in accordance with the recipient country's plans for promoting economic development. The agency primarily responsible for administering part I of that Act shall assess such plans to determine whether they will effectively promote economic development.

(3) Emphasis shall be placed on imports for agricultural activities which will expand agricultural production, particularly activities which expand production for export or production to reduce reliance on imported agricultural products.

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[35] Subsec. (t) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100–202). It formerly read as follows:

"SENATE PROCEDURES.—A joint resolution which is introduced in the Senate within 3 calendar days after the day on which the Congress receives a Presidential request described in subsection (p) and which, if enacted, would grant the President the authority to take any or all of the actions described in subsection (p) shall be considered in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473), except that—

"(1) references in such paragraphs to the Committees on Appropriations of the Senate shall be deemed to be references to the appropriate committee or committees of the Senate; and

"(2) amendments to the joint resolution are in order."

(4) Emphasis shall also be placed on a distribution of imports having a broad development impact in terms of economic sectors and geographic regions.

(5) In order to maximize the likelihood that the imports financed by the United States under such chapter are in addition to imports which would otherwise occur, consideration shall be given to historical patterns of foreign exchange uses.

(6)(A) Seventy-five percent of the foreign currencies generated by the sale of such imports by the government of the country shall be deposited in a special account established by that government and, except as provided in subparagraph (B), shall be available only for use in accordance with the agreement for economic development activities which are consistent with the policy directions of section 102 of the Foreign Assistance Act of 1961 and which are the types of activities for which assistance may be provided under sections 103 through 106 of that Act.

(B) The agreement shall require that the government of the country make available to the United States Government such portion of the amount deposited in the special account as may be determined by the President to be necessary for requirements of the United States Government.

(b) ANNUAL EVALUATIONS.—The agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall conduct annual evaluations of the extent to which the criteria set forth in this subsection have been met.

SEC. 802. ECONOMIC SUPPORT ASSISTANCE FOR SOUTHERN AFRICA.

(a) FUNDS FOR SOUTHERN AFRICA REGIONAL PROGRAMS.—Of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $30,000,000 for fiscal year 1986 and not less than $30,000,000 for fiscal year 1987 shall be available only for regional programs in southern Africa. Not less than 50 percent of each of these amounts shall be allocated to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the nine member states forming this important regional institution, especially in the following sectors: transportation, agriculture research and training, manpower development, and institutional support for the SADCC secretariat.

(b) STUDIES RELATING TO SOUTHERN AFRICA REGIONAL PROGRAMS.—(1) The administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall conduct a study which evaluates—

(A) the assistance which that agency provides to the Southern Africa Development Coordination Conference and other African regional institutions and economic development organizations, and

(B) ways to improve such assistance.

(2) The administrator shall also conduct a study which assesses what type of bureaucratic mechanism within that agency might be established to coordinate assistance to all African regional institutions.

(3) The administrator shall submit the results of the studies conducted pursuant to this subsection to the Congress within 3 months after the date of enactment of this Act.

(c) SOUTH AFRICA EDUCATIONAL TRAINING PROGRAMS.—Funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 1986 and fiscal year 1987 which are used for education or training programs in South Africa may not be used for programs conducted by or through organizations in South Africa which are financed or controlled by the Government of South Africa, such as the "homeland" and "urban council" authorities. Such funds may only be used for programs which in both their character and organizational sponsorship in South Africa clearly reflect the objective of a majority of South Africans for an end to the apartheid system of separate development. Nothing in this subsection shall be construed to prohibit programs which are consistent with this subsection and which award university scholarships to students who choose to attend a South African-supported university.

(d) HUMAN RIGHTS FUND FOR SOUTH AFRICA.—Of the amount allocated for the Human Rights Fund for South Africa under chapter 4 of part II of the Foreign Assistance Act of 1961 for each of the fiscal years 1986 and 1987, not less than 35 percent shall be used for direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protestors and prisoners, and for support for actions of black-led community organizations to resist, through non-violent means, the enforcement of apartheid policies such as—

(1) removal of black populations from certain geographic areas on account of race or ethnic origin,

(2) denationalization of blacks, including any distinctions between the South African citizenships of blacks and whites,

(3) residence restrictions based on race or ethnic origin,

(4) restrictions on the rights of blacks to seek employment in South Africa and live wherever they find employment in South Africa, and

(5) restrictions which make it impossible for black employees and their families to be housed in family accommodations near their place of employment.

SEC. 803. POLICY TOWARD SOUTH AFRICAN "HOMELANDS".

(a) FINDINGS.—The Congress finds that—

(1) the sanctity of the family, individual liberty, maximum freedom of choice, ownership of private property, and equal treatment of all citizens, regardless of race, are principles which are fully supported by the American people;

(2) the forced relocation of blacks by the Government of the Republic of South Africa to designated "homelands" divides families, as families are required to remain in the "homelands" while fathers seek work in the so-called "white areas";

(3) the forced removal of persons living in so-called "black spots" in "white" rural areas in South Africa denies them the fundamental right to live and to farm on land they have legally occupied for years, and subjects them to arbitrary arrest and detention when they seek these rights;

(4) compared to "white" South Africa, the designated "homelands", which are meant to accommodate the largest South African population group on a fraction of South African territory and were established without the consent of the vast majority of the governed, are characterized by high rates of infant mortality, unemployment, and malnutrition and by a severe shortage of medical services;

(5) the policy of the Government of the Republic of South Africa denies blacks their rightful claim to full South African citizenship; and

(6) the recent violence in South Africa must be seen as an inevitable result of the denial of the full rights of citizenship.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the policy of separate development and the forced relocation of the people of the Republic of South Africa are inconsistent with fundamental American values and internationally recognized principles of human rights;

(2) the Government of the United States should continue to regard as citizens of South Africa all persons born within the internationally recognized boundaries of the Republic of South Africa, and not differentiate among these citizens on the basis of the South African Government's claim to have granted independence to various "homelands";

(3) at such times that any "homeland" official applies for a visa for travel to the United States, such visa should not be granted unless that official holds a passport which is recognized as valid by the Government of the United States; and

(4) the Government of the United States should urge that the forced relocation of South African citizens be discontinued and that policies be adopted for all South Africa's citizens which protect the sanctity of the family, individual liberty, maximum freedom of choice, ownership of private property, and equal treatment of all citizens, regardless of race.

SEC. 804. ASSISTANCE FOR ZAIRE.

(a) ECONOMIC SUPPORT ASSISTANCE.—Funds allocated for assistance for Zaire under chapter 4 of part II of the Foreign Assistance Act of 1961 for each of the fiscal years 1986 and 1987 shall be used only for assistance which is provided in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961. Such assistance shall be provided, to the maximum extent practicable, through private and voluntary organizations.

(b) MILITARY ASSISTANCE.—For each of the fiscal years 1986 and 1987—

(1) the value of assistance provided under chapter 2 of part II of the Foreign Assistance Act of 1961 for Zaire may not exceed $7,000,000; and

(2) financing may not be provided under the Arms Export Control Act of Zaire.

SEC. 805. ASSISTANCE FOR TUNISIA.

(a) POLICY CONCERNING SECURITY ASSISTANCE.—The United States provides security assistance to Tunisia in recognition of the traditional friendship between the United States and Tunisia and our common interests in the region. The provision of such assistance is also based on the expectation that political stability and development in Tunisia will be best advanced through continued growth of democratic institutions.

(b) EARMARKING OF MAP AND ESF.—For each of the fiscal years 1986 and 1987—

(1) not less than $15,000,000 of the amounts authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961, and

(2) not less than $20,000,000 [36] of the amounts authorized to be appropriated to carry out chapter 4 of part II of that Act,

shall be available only for Tunisia.

SEC. 806. POLITICAL SETTLEMENT IN SUDAN.

(a) FINDINGS.—The Congress finds that—

(1) friendship and mutual interests bind the United States and Sudan; and

(2) the peace, security, and economic development of Sudan depend in large part on addressing the problems associated with the traditional north- south division in that country through political rather than military means.

(b) UNITED STATES POLICY. [37]—It is, therefore, the policy of the United States that the provision of security assistance to Sudan shall be based on the expectation that the Government of Sudan will make progress toward reaching a political settlement with all parties to the conflict in the south of Sudan.

SEC. 807. ELECTIONS IN LIBERIA.

In recognition of the special relationship that the United States has with Liberia and of the wide variety of interests that the United States has in Liberia, security assistance for Liberia for fiscal years 1986 and 1987 is based on the expectation of a successful completion of free and fair elections, on a multiparty basis, in October 1985 as proposed by the Government of Liberia and on a return to full civilian, constitutional rule as a consequence of those elections.

SEC. 808. WESTERN SAHARA.

(a) UNITED STATES POLICY.—The policy of the United States shall be to support a negotiated political solution to the conflict in the Western Sahara taking into account the principle of self-determination as outlined in the 1981 Nairobi resolution and to encourage all parties to the conflict to reach a peaceful internationally recognized settlement. As part of this policy, the United States should carefully consider each type of military assistance it furnishes to any of the parties to the conflict and should seek to insure that the furnishing of such military assistance is consistent with United States policy which seeks a negotiated settlement.

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[36] Title III of the Foreign Assistance and Related Programs Appropriations Act, 1986 (sec. 101(i) of Public Law 99-190, 99 Stat. 1301), appropriated for Foreign Military Sales for fiscal year 1986: "not less than $27,000,000 of concessional credits shall be provided only for Tunisia."

[37] Sec. 542 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99-591, 100 Stat. 3341-236), provided:

"None of the funds provided in this Act shall be available for the Sudan if the President determines that the Sudan is acting in a manner that would endanger the stability of the region, or the Camp David peace process."

(b) FURTHER STATEMENT OF POLICY.—It is the further policy of the United States to support Morocco's legitimate defense needs and to discourage aggression by any country in North Africa against another.

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SEC. 812. FAILURE OF THE ETHIOPIAN GOVERNMENT TO RESPONSIBLY AMELIORATE FAMINE CONDITIONS.

(a) FINDINGS.—The Congress finds that—

(1) many thousands of Ethiopian people have suffered and died, and an additional ten million people are in danger of death, through starvation caused by prolonged drought;

(2) the Government of the United States has a continuing commitment to the emergency fund under title II of the Agricultural Trade Development and Assistance Act of 1954 (the Food For Peace Act);

(3) United States emergency food assistance for Africa in fiscal year 1985 is more than twice the amount provided in fiscal year 1984, and is the largest amount contributed by any single donor;

(4) the Ethiopian Government, as a client state of the Soviet Union, has considered the equipage and modernization of its five hundred thousand-person military organization more vital than alleviating the suffering of its people caused by drought;

(5) the Ethiopian Government has considered the funding of its military organization more vital than promoting a viable national agrarian policy;

(6) there is evidence that the Government of Ethiopia has used the drought- caused famine to induce cooperation from certain dedicated Ethiopians who seek to bring about fundamental changes in their country;

(7) the United States Government is concerned about the seizure by the Ethiopian Government of an Australian aid ship in an attempt to cut off food to its citizens in the northern regions, an area most severely stricken by famine; and

(8) the Ethiopian Government deems the appearance and status of its socialist system more worthy of attention than its citizens and agricultural policies in need.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the Government of Ethiopia should be condemned for failing in its responsibility to sufficiently ameliorate the severe drought and famine conditions throughout its agrarian countryside;

(2) the Government of Ethiopia should allocate more of its resources toward the development of a more balanced and effective agrarian system;

(3) human rights monitoring groups can be a positive force for human rights in Ethiopia and should be allowed to function and should be supported;

(4) the Government of Ethiopia should initiate a genuine policy of national reconciliation;

(5) the continued improvement of Ethiopia's treatment of the Ethiopian people and respect for human rights would better relations between the United States and Ethiopia;

(6) the President or his representatives should convey to Ethiopian officials the concerns of the Congress expressed in this section at every opportunity; and

(7) the President or his representatives should also convey these concerns of the Congress to the governments of United States allies and urge the cooperation of those governments in efforts to ensure a more responsible Ethiopian Government.

(c) PROHIBITION ON IMPORTS AND EXPORTS.—(1) The President shall determine, within 30 days after the date of enactment of this Act, whether the Ethiopian regime is conducting a deliberate policy of starvation of its people and has not granted fundamental human rights to its citizens. The President shall submit that determination, and the basis for the determination, to the Congress.

(2) If the President determines that such a policy is being conducted and that such rights are not being granted, paragraph (3) shall take effect if the Congress enacts a joint resolution approving that determination.

(3) If the conditions specified in paragraph (1) and (2) are met—

(A) goods and services of Ethiopian origin may not be imported into the United States; and

(B) except for emergency relief, rehabilitation, and recovery assistance, goods, and services of United States origin may not be exported (directly or indirectly) to Ethiopia.

(d) PROHIBITION ON ECONOMIC ASSISTANCE.—The President shall suspend all forms of economic assistance to the Government of Ethiopia. This section shall not be construed to prevent the furnishing of international disaster assistance under section 491 of the Foreign Assistance Act of 1961 or economic assistance which will directly benefit people in accordance with section 116 of that Act.

SEC. 813. ASSISTANCE FOR THE PEOPLE'S REPUBLIC OF MOZAMBIQUE.

(a) ECONOMIC ASSISTANCE.—The funds authorized to be appropriated for fiscal years 1986 and 1987 to carry out chapter 1 of part I (relating to development assistance) and chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961 that are allocated for bilateral assistance to the People's Republic of Mozambique shall be used solely for assistance to the private sector of the economy of Mozambique to the maximum extent practicable. To the maximum extent practicable, such funds shall be channeled to non-governmental entities in Mozambique.

(b) MILITARY ASSISTANCE.—(1) None of the funds authorized to be appropriated for fiscal year 1986 or fiscal year 1987 to carry out chapter 2 of part II (relating to grant military assistance) or chapter 5 of part II (relating to international military education and training) of the Foreign Assistance Act of 1961 shall be used to provide assistance to the People's Republic of Mozambique unless the President makes the certification described in paragraph (2) before providing any such assistance for that fiscal year.

(2) The certification required by paragraph (1) is a certification by the President to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate that the Government of the People's Republic of Mozambique—

(A) is making a concerted and significant effort to comply with internationally recognized human rights;

(B) is making continued progress in implementing essential economic and political reforms, including the restoration of private property and respect for the right to engage in free enterprise in all sectors of the economy;

(C) has implemented a plan by September 30, 1986, to reduce the number of foreign military personnel to no more than 55; and

(D)(i) in the case of a certification with respect to assistance for fiscal year 1986, is committed to holding free elections at a date no later than September 30, 1986, and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in Mozambique which have declared their willingness to find and implement an equitable political solution to the conflict, with such solution to involve a commitment to—

(I) the electoral process with internationally recognized observers; and

(II) the elimination of all restrictions on the formation and activities of opposition political parties; and

(ii) in the case of a certification with respect to assistance for fiscal year 1987, held free elections by September 30, 1986.

TITLE IX—ASIA

SEC. 901. THE PHILIPPINES.[38]

(a) Democracy in the Philippines.—It is the sense of the Congress that the United States should encourage the revitalization of democracy in the Philippines. To that end, the Congress affirms its intention to grant future aid to the Philippines according to the determination of the Congress that United States security interests are enhanced and sufficient progress is made by the Government of the Philippines in—

(1) guaranteeing free, fair, and honest elections in 1986 and 1987, or sooner should any such elections occur;

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[38] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99-591, 100 Stat. 3341-221), provided:

"ECONOMIC SUPPORT FUND

"That not less than an additional sum of $200,000,000 shall be available only for the Philippines: * * * ."

Title I, Chapter V of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99-349, 100 Stat. 726), further provided:

"Special Assistance to the Philippines

"ECONOMIC SUPPORT FUND

"For an additional amount for the 'Economic Support Fund', $100,000,000, to remain available until March 31, 1987: *Provided*, That this amount shall be available only for the Philippines: *Provided further*, That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

"MILITARY ASSISTANCE

"For an additional amount for 'Military Assistance', $50,000,000, to remain available until March 31, 1987: *Provided*, That this amount shall be available only for the Philippines: *Provided further*, That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance."

(2) ensuring the full, fair, and open prosecution of those responsible for the murder of Benigno Aquino, including those involved in the cover-up;

(3) ensuring freedom of speech and freedom of the press, and unrestricted access to the media on the part of all candidates for public office in the local and provincial elections of 1986 and the Presidential election of 1987;

(4) establishing the writ of habeas corpus and the termination of the Presidential Detention Action and all other forms of detention without charge or trial;

(5) releasing all individuals detained or imprisoned for peaceful political activities;

(6) making substantial progress in terminating extrajudicial killings by the Philippine military and security forces and the prosecution of those responsible for such killings in the past;

(7) implementing structural economic reforms and a strengthening of the private sector, including elimination of corruption and monopolies; and

(8) enhancing the professional capability of the Philippine armed forces and security forces (including the Philippine Constabulary and the Civilian House Defense Forces).

(b) PRIMARY PURPOSE OF UNITED STATES ASSISTANCE.—The Congress finds and declares that the primary purpose of United States assistance to the Philippines should be to maintain and foster friendly relations between the people of the Philippines and the people of the United States and to encourage the restoration of internal security, both of which goals can be best served by the achievement of an open and stable democracy.

(c) CONGRESSIONAL OVERSIGHT.—The Congress, in determining future aid levels for the Philippines, will take into account not only our military bases agreement with that country, but also the extent to which the objectives and goals specified in subsections (a) and (b) have been implemented. The Congress may defer assistance for the Philippines under both chapter 2 of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act if—

(1) significant progress is not achieved with respect to the objectives and goals specified in subsections (a) and (b), or

(2) the Congress finds that such assistance is used to violate the internationally recognized human rights of the Filipino people.

(d) * * * Repealed 1986.[39]

(e) NONLETHAL ASSISTANCE.—Assistance provided for the Philippines for fiscal year 1986 under the Arms Export Control Act or under chapter 2, of part II of the Foreign Assistance Act of 1961 shall be nonlethal in character.

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[39] Sec. 556 of the Foreign Assistance and Related Programs Appropriations Act (in sec. 101(f) of Public Law 99-591, 100 Stat. 334), repealed sec. (d). It formerly read as follows:

"(d) AMOUNTS OF ASSISTANCE.—Of the amounts authorized to be appropriated for each of the fiscal years 1986 and 1987—

"(1) to carry out the Arms Export Control Act (relating to foreign military sales financing), not more than $20,000,000 may be used for assistance for the Philippines;

"(2) to carry out chapter 2 of part II of the Foreign Assistance Act of 1981 (relating to grant military assistance), not more than $50,000,000 may be used for assistance for the Philippines; and

"(3) to carry out chapter 4 of part II of the Foreign Assistance Act of 1981 (relating to the economic support fund), $110,000,000 shall be available only for the Philippines."

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SEC. 903. DISADVANTAGED CHILDREN IN ASIA.

(a) * * *

(b) ADDITIONAL STEPS TO HELP AMERASIAN CHILDREN.—The Congress finds that Amerasian children are currently the object of discrimination in the countries in Asia where they now reside. Therefore, the President shall report to the Congress on the quality of life of these children and on what additional steps, such as facilitating adoptions, the United States could take to enhance the lives of these children.

SEC. 904.[40] ASSISTANCE FOR AFGHANISTAN.

(a) AUTHORIZATION.—The President may make available funds authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

(b)[41] EARMARKING OF FUNDS.—Each fiscal year, not less than $15,000,000 of the aggregate amount of funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 shall be available only for humanitarian assistance to the Afghan people pursuant to subsection (a) of this section.

(c) EFFECTIVE DATES.—This section shall take effect on the date of enactment of this Act, except that subsection (b) shall not apply to fiscal year 1985.

SEC. 905. ASSISTANCE FOR THE CAMBODIAN PEOPLE.

The President may make available to the noncommunist resistance forces in Cambodia up to $5,000,000 for fiscal year 1986, and up to $5,000,000 for fiscal year 1987, of the funds authorized to be appropriated to carry out chapter 2 (relating to grant military assistance) or chapter 4 (relating to the economic support fund) of part II of the Foreign Assistance Act of 1961, notwithstanding any other provision of law.

SEC. 906. PROHIBITION ON CERTAIN ASSISTANCE TO THE KHMER ROUGE.

(a) PROHIBITION.—Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for the purpose or with the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any of its members to conduct military of paramilitary operations in Cambodia or elsewhere in Indochina.

(b) DEOBLIGATION OF CERTAIN FUNDS.—All funds appropriated before the date of enactment of this section which were obligated but not expended for activities having the purpose or effect described in subsection (a) shall be deobligated and shall be deposited in the Treasury of the United States as miscellaneous receipts.

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[40] 22 U.S.C. 2374 note.

[41] Sec. 541 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99-591, 100 Stat. 3341-236), provided:

"Not less than $300,000,000 of the aggregate amount of funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law."

(c) EXCEPTION FOR HUMANITARIAN ASSISTANCE.—This section shall not be construed as limiting the provision of food, medicine, or other humanitarian assistance to the Cambodian people.

SEC. 907. POLITICAL SETTLEMENT IN SRI LANKA.

(a) FINDINGS.—The Congress finds that—

(1) the Government and people of Sri Lanka and the Government and people of the United States share a common devotion to independence, democracy, and human rights;

(2) the United States is concerned over the armed clashes between the security forces of the Government of Sri Lanka and some Sri Lankans who seek through violent means, including terrorist attacks, to divide that nation;

(3) there have been acts of terrorism committed against members of the Sri Lankan security forces, as well as against civilians, and there have been human rights abuses by members of the security forces against civilians, particularly Tamils, despite the efforts of the Government, which the Congress believes must be intensified, to put an end to those abuses;

(4) the differences and grievances in Sri Lanka cannot be resolved through the use of force; and

(5) the United States is a proud participant through its economic assistance programs in Sri Lanka's highly regarded development efforts and looks forward to enhanced cooperation and assistance in the context of a political settlement in Sri Lanka leading to the kind of peaceful climate in which additional aid could be effectively utilized.

(b) POLITICAL SETTLEMENT.—It is, therefore, the sense of the Congress that—

(1) all parties in Sri Lanka, from all communities in and out of government, should renew their efforts to achieve a joint political settlement which meets the legitimate concerns of all the people of Sri Lanka, while preserving the territorial integrity of Sri Lanka; and

(2) all parties outside Sri Lanka should do nothing which would impede progress toward such a settlement.

SEC. 908. UNITED STATES POLICY TOWARD THE REPUBLIC OF KOREA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Republic of Korea has taken several significant and encouraging steps in liberalizing the political system in that country;

(2) among the steps which have facilitated a more democratic environment are the release of hundreds of student demonstrators, the lifting of a political ban on more than 300 opposition leaders, and the holding of a vigorously contested election for the National Assembly in which the opposition made substantial gains;

(3) despite these steps, the people of the Republic of Korea, who have become increasingly better educated and prosperous as a result of Korea's extraordinarily rapid economic develop-

ment, have the desire and the capability to participate more fully and effectively in the government of their own country; and

(4) while internationally recognized human rights are clearly respected much more in the Republic of Korea than in the Democratic People's Republic of Korea, continued progress toward democratization in the south is in the interests of both the Republic of Korea and the United States, inasmuch as long-term political stability cannot be assured in the absence of further progress towards democratic government.

(b) UNITED STATES POLICY.—It is the policy of the United States to provide assistance to the Republic of Korea in order to help that country defend itself against external aggression. It is the hope of the United States that the continuing close relations between our two countries, including such assistance, will encourage the establishment of a genuinely democratic system in the Republic of Korea, in which internationally recognized human rights, including freedom of the press, freedom of association, and freedom of assembly are observed.

TITLE X—FOOD AND AGRICULTURAL ASSISTANCE

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SEC. 1008. LONG-TERM AGRICULTURAL COMMODITY AGREEMENTS WITH FOOD DEFICIT COUNTRIES.

As part of the United States foreign assistance program, the President should explore the possibility of concluding long-term agricultural commodity agreements to help stabilize and increase the flow of concessional and commercial foodstuffs with food deficit countries. The President shall prepare and transmit to the Congress a report on his efforts to achieve such long-term agreements by June 1, 1986.

TITLE XI—PEACE CORPS

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SEC. 1103.[42] LIMITATION ON LENGTH OF PEACE CORPS EMPLOYMENT.

(a) * * *

(b) * * *

SEC. 1104.[42] PEACE CORPS NATIONAL ADVISORY COUNCIL.

(a) * * *

(b) * * *

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TITLE XII—MISCELLANEOUS PROVISIONS RELATING TO FOREIGN ASSISTANCE

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[42] For text, see page 1136.

SEC. 1205.[43] REPORTS ON ECONOMIC CONDITIONS IN CERTAIN COUNTRIES.

(a) External Debt Burden of Certain Countries Receiving United States Assistance.—The Congress finds that the Governments of Egypt, Israel, Turkey, and Portugal each have an enormous external debt burden which may be made more difficult by virtue of financing provided for those governments under various United States assistance programs.

(b) Annual Reports on Economic Conditions.—In order to assist the Congress in examining United States assistance for those countries, the President shall report to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, not later than January 15 of each year, regarding economic conditions prevailing in Egypt, Israel, Turkey, and Portugal which may affect their respective ability to meet their international debt obligations and to stabilize their economies.

SEC. 1206. EGYPTIAN-ISRAELI RELATIONS.

The Congress notes the recent effort of Egypt to move the peace process forward. However, the Congress continues to be concerned about the less than normal relations between Egypt and Israel. It is the sense of the Congress that all United States foreign assistance to Egypt is provided in the expectation that the Egyptian Government will continue in its efforts to bring peace to the region and that it will continue to support and fulfill the provisions of the Camp David Accords and the Egyptian-Israeli Peace Treaty.

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SEC. 1210. REPORT ON UNITED STATES ASSISTANCE TO COAL EXPORTING NATIONS.

Not later then 30 days after the date of enactment of this Act, the President shall submit to the appropriate committees of the Congress a report describing the status and terms of, and containing all other pertinent information relating to, any United States Government assistance which is provided to foreign nations that produce or export coal for the purpose of financing or assisting in the development of coal production, transportation, export, or other coal-related activities or operations.

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TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 1301.[44] EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect on October 1, 1985.

SEC. 1302.[45] CODIFICATION OF POLICY PROHIBITING NEGOTIATIONS WITH THE PALESTINE LIBERATION ORGANIZATION

(a) United States Policy.—The United States in 1975 declared in a memorandum of agreement with Israel, and has reaffirmed

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[43] 25 U.S.C. 2346 note.

[44] 22 U.S.C. 21511 note.

[45] 22 U.S.C. 2151 note. Sec. 531 of the Foreign Assistance Appropriations Act, 1986 (Sec. 101(i) of Public Law 99-190, 99 Stat. 1307), provided the following:

Continued

since, that "The United States will continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338.".

(b) Reaffirmation and Codification of Policy.—The United States hereby reaffirms that policy. In accordance with that policy, no officer or employee of the United States Government and no agent or other individual acting on behalf of the United States Government shall negotiate with the Palestine Liberation Organization or any representatives thereof (except in emergency or humanitarian situations) unless and until the Palestine Liberation Organization recognizes Israel's right to exist, accepts United Nations Security Council Resolutions 242 and 338 and renounces the use of terrorism.

SEC. 1303.[46] COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD.

(a) Purpose.—Because the fabric of a society is strengthened by visible reminders of the historical roots of the society, it is in the national interest of the United States to encourage the preservation and protection of the cemeteries, monuments, and historic buildings associated with the foreign heritage of United States citizens.

(b) Establishment.—There is established a commission to be known as the Commission for the Preservation of America's Heritage Abroad (hereafter in this section referred to as the "Commission").

(c) Duties.—The Commission shall—

(1) identify and publish a list of those cemeteries, monuments, and historic buildings located abroad which are associated with the foreign heritage of United States citizens from eastern and central Europe, particularly those cemeteries, monuments, and buildings which are in danger of deterioration or destruction;

(2) encourage the preservation and protection of such cemeteries, monuments, and historic buildings by obtaining, in cooperation with the Department of State, assurances from foreign governments that the cemeteries, monuments, and buildings will be preserved and protected; and

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"In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism." Sec. 530 of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of Public Law 99-591, 100 Stat. 3341-231) contained identical language.

Sec. 527 of the Foreign Assistance and Related Agencies Appropriations Act 1987 (see. 101(f) of Public Law 99-591, 100 Stat. 3341-230) provided:

"Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended."

[46] 16 U.S.C. 469j.

(3) prepare and disseminate reports on the condition of and the progress toward preserving and protecting such cemeteries, monuments, and historic buildings.

(d) MEMBERSHIP.—(1) The Commission shall consist of 21 members appointed by the President, 7 of whom shall be appointed after consultation with the Speaker of the House of Representatives and 7 of whom shall be appointed after consultation with the President pro tempore of the Senate.

(2)(A) Except as provided in subparagraphs (B) and (C), members of the Commission shall be appointed for terms of 3 years.

(B) Of the members first appointed after consultation with the Speaker of the House of Representatives, 5 shall be appointed for 2 years.

(C) A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the member's predecessor was appointed.

(D) A member may retain membership on the Commission until the member's successor has been appointed.

(3) The President shall designate the Chairman of the Commission from among its members.

(e) MEETINGS. The Commission shall meet at least once every three months.

(f) COMPENSATION AND PER DIEM.—(1) Members of the Commission shall receive no pay on account of their service on the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(g) AUTHORITIES.—(1) The Commission or any member it authorizes may, for the purposes of carrying out this section, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may appoint such personnel (subject to the provisions of title 5 of the United States Code which govern appointments in the competitive service) and may fix the pay of such personnel (subject to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates) as the Commission deems desirable.

(3) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS-18 of the General Schedule (5 U.S.C. 5332(a)).

(4) Upon request of the Commission, the head of any Federal department or agency, including the Secretary of State, may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this section.

(5) The Commission may secure directly from any department or agency of the United States, including the Department of State, any information necessary to enable it to carry out this section. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(6) The Commission may accept, use, and dispose of gifts or donations of money or property.

(7) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(8) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) REPORTS.—The Commission shall transmit an annual report to the President and to each House of Congress as soon as practicable after the end of each fiscal year. Each report shall include a detailed statement of the activities and accomplishments of the Commission during the preceding fiscal year and any recommendations by the Commission for legislation and administrative actions.

SEC. 1304.[47] FEDERAL COAL EXPORT COMMISSION.

(a) ESTABLISHMENT.—The Secretary of Commerce shall establish, within ninety days after the date of enactment of this Act, a Federal Coal Export Commission (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of thirty members appointed by the Secretary of Commerce, as follows:

(1) FEDERAL GOVERNMENT REPRESENTATIVES.—Ten members shall be representatives of the International Trade Administration, the Department of Energy, the Department of State, the Department of Transportation, the Office of the United States Trade Representative, and a Federal institution involved in export financing.

(2) PRIVATE SECTOR REPRESENTATIVES.—

(A) Five members shall be representatives of export coal producers, including traders and brokers.

(B) Five members shall be representatives of coal labor.

(C) Five members shall be representatives of transporters of export coal, including representatives of rail and barge carriers and port authorities.

(D) Five members shall be representatives of institutions having a substantial interest in United States export coal financing.

(c) EXPENSES.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

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[47] 15 U.S.C. 4011 note.

(d) **Cooperation.**—All Federal departments and agencies are authorized to cooperate with the Commission and to furnish information, appropriate personnel, and such assistance as may be agreed upon by the Commission and the Federal department or agency involved.

(e) **Activities.**—The Commission shall convene not less than four times a year for consultation on activities leading to increased cooperation among entities involved in United States coal exports, with the goal of expanding the United States share of the international coal market. Activities of the Commission shall include, but are not limited to, the identification of—

(1) diplomatic channels to facilitate the exportation of United States coal and methods to increase the coordination of diplomatic efforts relating to such exports;

(2) domestic and international impediments to coal exports;

(3) foreign markets for United States export coal, with emphasis on increasing United States coal sales to developing nations and expanding the participation of the United States International Development Cooperation Agency in such an effort;

(4) availability of, and methods of, financing United States coal exports, including the feasibility of increasing Federal export financial and economic assistance; and

(5) methods to promote, market, and coordinate United States coal on the international market.

The Commission shall also examine the potential for small- and medium-sized coal companies to enter the export coal trade through export trading companies with respect to the marketing, transportation, and financial services which such trading companies may provide pursuant to the Export Trading Company Act of 1982.

(f) **Report.**—The Commission shall submit to the President and the Congress, within two years after its first meeting, a report which details its findings pursuant to subsection (e) and, based upon such findings, makes recommendations which would lead to the expansion of the United States share of the international metallurgical and steam coal market.

(g) **Termination.**—The Commission shall cease to exist upon submission of its report pursuant to subsection (f).

i. Jordan Supplemental Economic Assistance Authorization Act of 1985

Partial text of Public Law 99-88 [Supplemental Appropriations Act, 1985, H.R. 2577], 99 Stat. 376, approved August 15, 1985

AN ACT Making supplemental appropriations for the fiscal year ending September 30, 1985, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1985, and for other purposes.

* * * * * * *

TITLE IV—AUTHORIZATION OF ECONOMIC SUPPORT FUND ASSISTANCE FOR JORDAN

SHORT TITLE

SEC. 401. This title may be cited as the "Jordan Supplemental Economic Assistance Authorization Act of 1985".

ECONOMIC SUPPORT FUND

SEC. 402. (a)(1) In addition to funds otherwise available for such purposes for such fiscal year, there are authorized to be appropriated to the President to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $250,000,000 for the fiscal year 1985, which amount shall be available only for Jordan.

(2) Of the funds authorized to be appropriated by paragraph (1)—

(A) for the fiscal year 1985, $50,000,000 shall be available only for commodity import programs and $30,000,000 shall be available only for project assistance;

(B) for the fiscal year 1986, $50,000,000 shall be available only for commodity import programs and $30,000,000 shall be available only for project assistance; and

(C) for the fiscal year 1987, $60,000,000 shall be available only for commodity import programs and $30,000,000 shall be available only for project assistance.

(b) Amounts appropriated to carry out this section are authorized to remain available until September 30, 1987.[1]

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[1] Title II of the Foreign Assistance and Related Programs Appropriations Act, 1987 (sec. 101(f) of the Continuing Appropriations Act, 1987, Public Law 99-591, 100 Stat. 3341), provided:

"Economic support fund: * * * *Provided further,* That up to $15,000,000 shall be made available for Jordan in addition to funds otherwise made available by this paragraph and allocated to Jordan: * * *"

POLICY

Sec. 403. (a) Sense of Congress.—It is the sense of Congress that no foreign military sales financing authorized by this Act may be used to finance the procurement by Jordan of United States advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems, and no notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons systems, unless Jordan is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

(b) Certification.—Any notification made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems or other new advanced military weapons, must be accompanied by a Presidential certification of Jordan's public commitment to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

j. African Famine Relief and Recovery Act of 1985

Partial text of Public Law 99-8 [S. 689], 99 Stat. 21, approved April 2, 1985

AN ACT To authorize appropriations for famine relief and recovery in Africa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "African Famine Relief and Recovery Act of 1985".[1]

SEC. 2.[2] * * *

SEC. 3.[1] MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the Department of State for "Migration and Refugee Assistance" for the fiscal year 1985, $37,500,000 for assisting refugees and displaced persons in Africa.

(b) USE OF FUNDS.—

(1) PROJECTS FOR IMMEDIATE DEVELOPMENT NEEDS.—Up to 54 percent of the funds authorized to be appropriated by this section may be made available to the United Nations Office of Emergency Operations in Africa for projects such as those proposed at the second International Conference on Assistance to Refugees in Africa (ICARA II) to address the immediate development needs created by refugees and displaced persons in Africa.

(2) EMERGENCY RELIEF AND RECOVERY EFFORTS.—The remaining funds authorized to be appropriated by this section shall be used by the Bureau for Refugee Programs of the Department of State for emergency relief and recovery efforts in Africa.

SEC. 4.[1] DEPARTMENT OF DEFENSE ASSISTANCE.

(a) SPECIAL RULE ON REIMBURSEMENT.—If the Department of Defense furnishes goods or services for African supplemental famine assistance activities, the Department of Defense shall be reimbursed for not more than the costs which it incurs in providing those goods or services. These costs do not include military pay and allowances, amortization and depreciation, and fixed facility costs.

(b) DEFINITION OF AFRICAN SUPPLEMENTAL FAMINE ASSISTANCE ACTIVITIES.—For purposes of this section, the term "African supplemental famine assistance activities" means the provision of the following fiscal year 1985 supplemental assistance for Africa:

(1) Famine assistance pursuant to section 2 of this Act.

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[1] 22 U.S.C. 2292 note.

[2] Sec. 2 amended the Foreign Assistance Act of 1961 by adding a new section 495K entitled "African Famine Assistance."

(2) Migration and refugee assistance pursuant to section 3 of this Act.

(3) Assistance pursuant to supplemental appropriations for title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721-1726).

(4) Assistance with funds appropriated during fiscal year 1985 for the Emergency Refugee and Migration Assistance Fund (22 U.S.C. 2601(c)).

SEC. 5.[1] GENERAL PROVISIONS RELATING TO ASSISTANCE.

(a) COUNTRIES TO BE ASSISTED.—Amounts authorized to be appropriated by this Act shall be available only for assistance in those countries in Africa which have suffered during calendar years 1984 and 1985 from exceptional food supply problems due to drought and other calamities.

(b) "HICKENLOOPER AMENDMENT".—Assistance may be provided with funds authorized to be appropriated by this Act without regard to section 620(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(e)(1)).

(c) ENSURING THAT ASSISTANCE REACHES INTENDED RECIPIENTS.—The President shall ensure that adequate procedures have been established so that assistance pursuant to this Act is provided to the famine victims for whom it is intended.

SEC. 6.[1] REPORTS ON AFRICAN FAMINE ASSISTANCE.

(a) REPORT ON UNITED STATES CONTRIBUTION TO MEET EMERGENCY NEEDS.—

(1) REQUIREMENT FOR REPORT.—Not later than June 30, 1985, the President shall report to the Congress with respect to the United States contribution to meet emergency needs, including food needs, for African famine assistance.

(2) INFORMATION TO BE INCLUDED IN REPORT.—The report required by this subsection shall describe—

(A) the emergency needs, including food needs, for African famine assistance that are identified by the President's Interagency Task Force on the African Food Emergency, private and voluntary organizations active in famine relief, the United Nations Office for Emergency Operations in Africa, the United Nations Food and Agriculture Organization, the World Food Program, and such other organizations as the President considers appropriate; and

(B) the projected fiscal year 1985 contribution by the United States Government to meet an appropriate share of those needs referred to in subparagraph (A).

(b) REPORT ON ASSISTANCE PROVIDED PURSUANT TO THIS ACT.—

(1) REQUIREMENT FOR REPORT.—Not later than September 30, 1985, the President shall report to the Congress on the assistance provided pursuant to this Act.

(2) INFORMATION TO BE INCLUDED IN REPORT.—

(A) USE OF FUNDS.—The report pursuant to this subsection shall describe the uses, by the Agency for International Development and by the Department of State, of the funds authorized to be appropriated by this Act, including—

(i) a description of each project or program supported with any of those funds, and the amount allocated to it;

(ii) the identity of each private and voluntary organization or international organization receiving any of those funds, and the amount of funds each received;

(iii) the amount of those funds used for assistance to each country;

(iv) the amount of those funds, if any, which will not have been obligated as of September 30, 1985; and

(v) a list of any projects or programs supported with those funds which are not expected to be completed as of December 31, 1985.

k. International Security and Development Assistance Authorizations Act of 1983

Partial text of Public Law 98-151 [H.J. Res. 413], 97 Stat. at 964, approved November 14, 1983

A JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1984.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1984, and for other purposes, namely:

Sec. 101. (a) * * *

(b)(1) * * *[1]

(2) Section 101(b)(2) of this joint resolution may be cited as the "International Security and Development Assistance Authorizations Act of 1983".

AUTHORIZATIONS OF APPROPRIATIONS

There is authorized to be appropriated to the President $1,315,000,000 for the fiscal year 1984 to carry out section 23 of the Arms Export Control Act. The total principal amount of loans guaranteed under section 24(a) of the Arms Export Control Act shall not exceed $4,446,500,000 for the fiscal year 1984.

There are authorized to be appropriated for the fiscal year 1984 the following amounts to carry out the following provisions of the Foreign Assistance Act of 1961:

(1) $725,213,000 to carry out section 103.
(2) $244,600,000 to carry out section 104(b).
(3) $133,400,000 to carry out section 104(c).
(4) $121,477,000 to carry out section 105.
(5) $160,000,000 to carry out section 106.
(6) $103,000,000 to carry out section 121.
(7) $30,000,000 to carry out section 214.
(8) $266,214,000 to carry out chapter 3 of part I.
(9) $47,000,000 to carry out section 481.
(10) $25,000,000 to carry out section 491.
(11) $3,074,000,000 to carry out chapter 4 of part II.
(12) $639,700,000 to carry out section 503.
(13) $56,452,000 to carry out chapter 5 of part II.
(14) $46,200,000 to carry out chapter 6 of part II.
(15) $22,000,000 to carry out section 661.

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[1] Sec. 101(b)(1) was cited as the "Foreign Assistance and Related Programs Appropriations Act, 1984."

(16) $370,000,000 to carry out section 667.

There is authorized to be appropriated to the President to carry out the African Development Foundation Act $3,000,000 for the fiscal year 1984.

There is authorized to be appropriated to carry out the Peace Corps Act $116,000,000 of the fiscal year 1984.

Section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956 shall not apply with respect to funds appropriated for "Migration and Refugee Assistance" or for the Inter-American Foundation by the joint resolution of October 1, 1983 (Public Law 98-107), as amended by this joint resolution.

ASSISTANCE FOR ISRAEL AND EGYPT [2]

* * * * * * *

CONDITIONS ON MILITARY ASSISTANCE FOR EL SALVADOR

Not more than 70 percent of the amount available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until—

(1) Salvadoran authorities have substantially concluded all investigative actions in the case of the National Guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set forth in communications from the Department of State (including the letters dated July 8 and September 23, 1983); and

(2) Salvadoran authorities have brought the accused to trial and have obtained a verdict.

Not more than 90 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until the President has determined and certified to the Congress that—

(1) the Government of El Salvador has not taken any action which would alter, suspend, or terminate the land reform program for phase I or phase III promulgated under Decree 154 (dated March 5, 1980) or Decree 207 (dated April 28, 1980) in a manner detrimental to the rights of the beneficiaries or the potential beneficiaries under those decrees; and

(2) the Government of El Salvador continues to make documented progress on implementing the land reform program.

MINORITY SET-ASIDE

Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate of the funds made available for the fiscal year 1984 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically Black colleges and universities, and private and voluntary organizations which are controlled by individuals who are Black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

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[2] This paragraph amended sec. 31 of the Arms Export Control Act and sec. 532 of the Foreign Assistance Act of 1961, to provide authorization levels for Israel and Egypt for fiscal year 1984.

MINORITY RESOURCE CENTER

None of the funds authorized to be appropriated for the fiscal year 1984 to carry out the Foreign Assistance Act of 1961 may be used to eliminate the Minority Resource Center as a separate and distinct entity within the Agency for International Development, including implementation of a consolidation of the Minority Resource Center with the Office of Small and Disadvantaged Business Utilization under section 133(c)(8) of the International Development and Food Assistance Act of 1977.

PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI

It is the sense of the Congress that for the fiscal year 1984 up to $24,000,000 of the funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, and up to $10,000,000 of the funds available to carry out chapter 4 of part II of such Act, should be made available for development assistance for Haiti, subject to the limitation contained in the third paragraph of this heading.

To the maximum extent practicable, assistance for Haiti under chapter 1 of part I and under chapter 4 of part II of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

Funds available for fiscal year 1984 to carry out chapter 1 of part I or chapter 2, 4, or 5 of part II of the Foreign Assistance Act of 1961 may be obligated for Haiti, and credits may be extended and guarantees may be issued under the Arms Export Control Act for Haiti, only if the President determines that the Government of Haiti—

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years); and

(3) is making a concerted and significant effort to improve the human rights situation in Haiti by implementing the political reforms which are essential to the development of democracy in Haiti, including the establishment of political parties, free elections, and freedom of the press.

Six months after the date of enactment of this section, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each numbered provision contained in the third paragraph of this heading.

Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act for the fiscal year 1984 may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

PRIVATE SECTOR REVOLVING FUND

The amendment contained in section 407 of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, is hereby enacted.[3]

ANTITERRORISM ASSISTANCE PROGRAM

The amendments contained in title II of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, are hereby enacted,[4] except that, for purposes of such enactment, section 575 of the Foreign Assistance Act of 1961 shall read as follows:

"SEC. 575. APPROPRIATIONS.—There is authorized to be appropriated to the President to carry out this chapter $5,000,000 for the fiscal year 1984. Amounts appropriated under this section are authorized to remain available until expended.".

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[3] This amendment added a new sec. 108 to the Foreign Assistance Act of 1961. For text, see page 38.

[4] These amendments added a new chapter 8 to part II of the Foreign Assistance Act of 1961. For text, see page 176.

1. Lebanon Emergency Assistance Act of 1983 [1]

Public Law 98-43 [S. 639], 97 Stat. 214, approved June 27, 1983

AN ACT To authorize supplemental assistance to aid Lebanon in rebuilding its economy and armed forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Lebanon Emergency Assistance Act of 1983".

ECONOMIC SUPPORT FUND

Sec. 2. (a) It is hereby determined that the national interests of the United States would be served by the authorization and appropriation of additional funds for economic assistance for Lebanon in order to promote the economic and political stability of that country and to support the international effort to strengthen a sovereign and independent Lebanon.

(b) Accordingly, in addition to amounts otherwise authorized to be appropriated for the fiscal year 1983 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, there are authorized to be appropriated $150,000,000 to carry out such provisions with respect to Lebanon.[2]

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[1] See also the Multinational Force in Lebanon Resolution, Vol. II, sec. G.

[2] The Supplemental Appropriations Act, 1983 (Public Law 98-63, 97 Stat. 317) provided the following:

"ECONOMIC SUPPORT FUND

"For an additional amount for the 'Economic Support Fund', $301,250,000: *Provided*, That $150,000,000 of this amount shall be available only for Lebanon, to remain available until expended."

Subsequently, title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (Further Continuing Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1299), provided the following:

"TRANSFER OF FUNDS

"Transfer of funds: Of the unobligated funds remaining from funds appropriated for the 'Economic support fund' for Lebanon in Public Law 98-63, $22,850,000, shall be transferred as follows: (1) $12,500,000 to the 'Child Survival Funds,' (2) $5,350,000 to Internal Organizations and Programs for the United Nations Children's Fund, and (3) to 'International Narcotics Control: *Provided*, That except for such transfers,' amounts remaining unobligated as of September 30, 1985, from funds appropriated for the 'Economic Support Fund' for Lebanon in Public Law 98-63 shall, notwithstanding sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, be made available only for Lebanon: *Provided further*, That, to the extent that these funds cannot be used to provide assistance for Lebanon, they shall revert to the Treasury as miscellaneous receipts."

Sec. 535 of the Foreign Assistance and Related Agencies Appropriations Act, 1987 (sec. 101(f) of the Continuing Appropriations Act, 1987, Public Law 99-591, 100 Stat. 3341-232), provided:

"None of the funds appropriated or otherwise made available pursuant to this Act for 'Economic support fund' or for 'Foreign military credit sales' shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations."

(c) Amounts authorized by this section may be appropriated in an appropriation Act for any fiscal year (including a continuing resolution) and shall continue to be available beyond the fiscal year notwithstanding any provision of that appropriation Act to the contrary.

MILITARY SALES AND RELATED PROGRAMS

Sec. 3. (a) In order to support the rebuilding of the armed forces of Lebanon, the Congress finds that the national security interests of the United States would be served by the authorization and appropriation of additional funds to provide training for the Lebanese armed forces and by the authorization of additional foreign military sales guaranties to finance procurements by Lebanon of defense articles and defense services for its security requirements.

(b) In addition to amounts otherwise made available for the fiscal year 1983 to carry out the provisions of chapter 5 of part II of the Foreign Assistance Act of 1961, there are authorized to be appropriated for the fiscal year 1983 $1,000,000 to carry out such provisions with respect to Lebanon.[3]

(c) In addition to amounts otherwise made available for the fiscal year 1983 for loan guaranties under section 24(a) of the Arms Export Control Act, $100,000,000 of loan principal are authorized to be so guaranteed during such fiscal year for Lebanon.[3]

UNITED STATES ARMED FORCES IN LEBANON

Sec. 4. (a) The President shall obtain statutory authorization from the Congress with respect to any substantial expansion in the number or role in Lebanon of United States Armed Forces, including any introduction of United States Armed Forces into Lebanon in conjunction with agreements providing for the withdrawal of all foreign troops from Lebanon and for the creation of a new multinational peace-keeping force in Lebanon.

(b) Nothing in this section is intended to modify, limit, or suspend any of the standards and procedures prescribed by the War Powers Resolution of 1973.

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[3] Chapter V of the Supplemental Appropriations Act, 1983 (Public Law 98-63, 97 Stat. 318) provided the following:

"FOREIGN MILITARY SALES CREDIT

"During fiscal year 1983, for an additional amount for Foreign Military Credit Sales, for commitments to guarantee loans, $293,500,000 of contingent liability for loan principal: *Provided*, That of this sum $100,000,000 shall be available only for assistance to Lebanon.

"INTERNATIONAL MILITARY EDUCATION AND TRAINING

"For an additional amount for International military education and training, $1,000,000."

m. International Security and Development Cooperation Act of 1981

Partial text of Public Law 97-113 [S. 1196], 95 Stat. 1519, approved December 29, 1981, as amended by Public Law 97-233 [H.J. Res. 494], 96 Stat. 260, approved August 10, 1982; Public Law 98-53 [Conditions on Aid to El Salvador, H.R. 1271], 97 Stat. 287, approved July 15, 1983; and by Public Law 99-83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190 at 247, approved August 8, 1985

NOTE.—Except for the provisions noted below, the International Security and Development Cooperation Act of 1981 consists of amendments to the Foreign Assistance Act of 1961, the Arms Export Control Act, the Peace Corps Act, Public Law 480, and to several former foreign aid annual authorization acts. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize appropriations for the fiscal years 1982 and 1983 for international security and development assistance and for the Peace Corps, to establish the Peace Corps as an autonomous agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Security and Development Cooperation Act of 1981".

TITLE I—MILITARY SALES AND RELATED PROGRAMS

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SPECIAL DEFENSE ACQUISITION FUND

Sec. 108. (a) * * * [1]

(b) Section 138 of title 10, United States Code, is amended by adding immediately following subsection (f) the following new subsection:

"(g) The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act may not exceed $300,000,000 in fiscal year 1982, may not exceed

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[1] Sec. 108(a) amended the Arms Export Control Act by adding a new ch. 5 concerning the Special Defense Acquisition Fund. For text, see page 309.

$600,000,000 in fiscal year 1983, and may not exceed $900,000,000 in fiscal year 1984 or any fiscal year thereafter.".[2]

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TITLE II—ECONOMIC SUPPORT FUND

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ACQUISITION OF AGRICULTURAL COMMODITIES AND RELATED PRODUCTS UNDER COMMODITY IMPORT PROGRAMS

Sec. 203.[3] The Congress directs the President to allocate at least 15 percent of the funds which are made available each fiscal year under this title for commodity import programs for use in financing the purchase of agricultural commodities and agricultural related products which are of United States-origin.

TITLE III—DEVELOPMENT ASSISTANCE

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

Sec. 301. (a) * * *

(b)(1) It is the sense of the Congress that the United States should strongly support the efforts of developing countries to improve infant feeding practices, in particular through the promotion of breast feeding. As a demonstration of that support, the President is authorized to use up to $5,000,000 of the funds made available for the fiscal year 1982 to carry out the purposes of sections 103 and 104(c) of the Foreign Assistance Act of 1961 in order to assist developing countries establish or improve programs to encourage improved infant feeding practices. In carrying out this paragraph, the Agency for International Development should provide funds for necessary research to obtain better information on the precise nature and magnitude of problems relating to infant feeding practices, including the use of infant formula, in developing countries.

(2) The President shall, as part of the congressional presentation documentation for the fiscal years 1983 and 1984, include information relevant to the implementation of this subsection, including—

(A) a description of actions taken by the Agency for International Development to promote breast feeding and to improve supplemental infant feeding practices in developing countries through funds made available in this subsection and through its regular programs in the fields of health, nutrition, and population activities;

(B) a summary of the results of studies authorized by this subsection on the nature and magnitude of problems in developing countries related to infant feeding practices; and

(C) a summary of reports by member countries of the World Health Organization on their actions to implement the International Code of Marketing of Breast Milk Substitutes.

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[2] Sec. 1103 of the Department of Defense Authorization Act, 1983 (Public Law 97-252, 96 Stat. 738), amended subsec. (g) by inserting the ceiling figure for fiscal year 1984.

[3] 22 U.S.C. 2346 note.

TITLE IV—FOOD FOR PEACE PROGRAMS

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SELF-HELP MEASURES TO INCREASE AGRICULTURAL PRODUCTION; VERIFICATION OF SELF-HELP PROVISIONS

Sec. 403. (a) * * *

(b) * * *

(c)[4] The amendments made by this section shall not be effective if the Agriculture and Food Act of 1981 is enacted (either before or after the enactment of this Act) and contains the same amendments.

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TITLE V—OTHER ASSISTANCE PROGRAMS

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INTERNATIONAL NARCOTICS CONTROL

Sec. 502. (a)(1) * * *[5]

(2)[6] Assistance provided from funds appropriated, before the enactment of this Act, to carry out section 481 of the Foreign Assistance Act of 1961 may be made available for purposes prohibited by subsection (d) of such section as in effect immediately before the enactment of this subsection.

(3)[6] Funds appropriated for the fiscal year 1980 to carry out section 481 of the Foreign Assistance Act of 1961 which were obligated for assistance for the Republic of Colombia may be used for purposes other than those set forth in section 482(a)(2) of that Act[7] as in effect immediately before the enactment of the International Security and Development Cooperation Act of 1980.

(4)[6] Paragraphs (2) and (3) of this subsection shall apply only to the extent provided in advance in an appropriations Act. For such purpose, the funds described in those paragraphs are authorized to be made available for the purposes specified in those paragraphs.

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TITLE VI—PEACE CORPS

ESTABLISHMENT AS AN INDEPENDENT AGENCY

Sec. 601. (a) * * *[8]

(b) * * *[9]

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[4] Subsecs. (a) and (b) of sec. 403 contained amendments to Public Law 83-480. The Agriculture and Food Act of 1981, referred to in subsec. (c) was enacted on December 22, 1981 (Public Law 97-98, 95 Stat. 1213), and contained the same amendments as sec. 403. The amendments made by subsecs. (a) and (b), therefore, did not come into force.

[5] Par. (1) amended sec. 481(d) of the FA Act of 1961. For text, see page 123.

[6] 22 U.S.C. 2291 note.

[7] For text, see page 135.

[8] Sec. 601(a) amended the Peace Corps Act by adding a new sec. 2A providing for the Peace Corps as an independent agency. For text, see page 1106.

[9] For text of freestanding provisions of sec. 601, see page 1133.

RESTORATION OF CERTAIN AUTHORITIES FORMERLY CONTAINED IN THE FOREIGN SERVICE ACT

Sec. 604. (a) [10] * * *

(b) * * *

(c) [11] * * *

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TITLE VII—MISCELLANEOUS PROVISIONS

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INSPECTOR GENERAL

Sec. 705.[12] * * *

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EMERGENCY HUMANITARIAN HELP FOR THE PEOPLE OF POLAND

Sec. 708. (a) The people of Poland, with whom the people of the United States have a longstanding friendship, now face serious domestic food shortages which will be worsened by large-scale loss of their livestock this winter if feed supplies do not arrive quickly. Therefore, the President is urged, for urgent humanitarian reasons, to use existing authorities promptly in order to provide to the people of Poland, under as favorable terms as possible, feed grains from Commodity Credit Corporation stocks or other appropriate commodities.

(b) For the longer term, the President is encouraged to pursue discussions with other Western countries about a multilateral effort to help the people of Poland achieve self-sustaining economic recovery in the years ahead.

(c) * * * [13]

USE OF CERTAIN POLISH CURRENCIES

Sec. 709. (a) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, section 508 of the General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962, or any other provision of law, the currencies or credits received by the United States from the April 1981 sale and from the October 1981 sale of United States Government-held surplus dairy products to Poland shall, to such extent as may be provided in advance in an appropriation Act, be used by the President in Poland to serve United States interests, including use for activities of common benefit to the people of the United States and the people of Poland, such as joint programs in energy, agriculture, education, science, health, and culture, or for humanitarian activities.

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[10] Sec. 604(a) amended sec. 10 of the Peace Corps Act by adding new subsecs. (i) and (j). For text, see page 1120.

[11] For text of sec. 604(c), see page 1135.

[12] Sec. 705 amended sec. 2 and 11 of and added a new sec. 8A to the Inspector General Act of 1978 (Public Law 95–452, 99 Stat. 1101). Sec. 705 also amended the FA Act of 1961 to conform with the new sec. 8A.

[13] Subsec. (c) amended the Foreign Assistance Act of 1961 by adding a new sec. 540 providing $5,000,000 for Poland during fiscal year 1982.

(b) Notwithstanding any other provision of law, the availability or expenditure of such foreign currencies or credits shall not affect or reduce appropriations otherwise available for the purposes described in subsection (a).

FINDINGS REGARDING GLOBAL SECURITY

Sec. 710. (a) The Congress finds that the security of the United States and other countries is increasingly affected by a broad range of global problems including shortages or potential shortages of food, oil, water, wood, and other basic mineral and natural resources; desperate poverty; sickness; population pressures; environmental deterioration, including soil erosion and water pollution; and large-scale and destabilizing refugee problems.

(b) The Congress finds that hunger, disease, and extreme poverty are among the most critical of these global problems. As ever greater numbers of people perceive the disparity between their own continuing deprivation and the prosperity of others, and judge their predicament to be neither just nor inevitable, it becomes increasingly likely that there will be unrest and violence with consequent disruption of the flow of essential materials, adverse effects on the world economy, decreased likelihood of cooperative efforts toward meeting the other critical problems threatening national and global security, and increased likelihood of confrontation between nations which possess nuclear arms.

(c) Therefore, the Congress finds that the Nation's understanding of global and national security must be broad enough to include the problems cited in this section, and that adequate protection of the security of the United States requires effective action on these global problems, and in particular on the problems of hunger, disease, and extreme poverty.

WORLD FOOD SECURITY RESERVES

Sec. 711. (a) The Congress finds that—

(1) the Congress recently passed and the President signed into law an Act which provides for establishment of a United States food security reserve of up to four million metric tons of wheat to be used for emergency food assistance;

(2) the food import needs of developing countries will increase over the next ten years; and

(3) other grain exporting countries could take additional steps to assure continuity of food assistance during food crisis years.

(b) The President shall encourage other grain exporting countries to establish their own food security reserves or take other measures that complement the United States food security reserve.

(c) The President shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate within one year after the enactment of this Act on the actions he has taken and the response of other countries to these proposals.

FINDINGS AND DECLARATION OF POLICY REGARDING WORLD HUNGER

Sec. 712. The Congress, affirming the value of human life, finds and declares that the elimination of hunger and its causes is of fundamental moral significance and, further, that it is in the political, economic, and security interests of the United States. Therefore, the Congress declares that the elimination of hunger and its causes shall be a primary objective of United States relations with the developing countries.

REAFFIRMATION OF SUPPORT FOR HUMAN RIGHTS PROVISIONS

Sec. 713. (a) The Congress reaffirms its support for the various statutory provisions which have been enacted in order to promote internationally recognized human rights.

(b) It is the sense of the Congress that a strong commitment to the defense of human rights should continue to be a central feature of United States foreign policy.

IMMIGRANT VISAS FOR TAIWAN

Sec. 714.[14] The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted with respect to Taiwan (China).

LEBANON

Sec. 715. It is the sense of the Congress that the Government of the United States should continue to support diplomatic efforts to resolve the current crisis in Lebanon, and to pursue a comprehensive and coordinated policy in Lebanon guided by the following principles:

(1) maintenance of an effective cease-fire throughout Lebanon;

(2) resolution of the issue of the Syrian missiles deployed in Lebanon;

(3) freedom, security, and opportunity for the Christian and all other Lebanese communities, including the Moslem, Druze, Armenian, and Jewish communities in Lebanon;

(4) reaffirmation of the historic United States-Lebanon relationship and strengthening the longstanding commitment of the United States to the independence, sovereignty, and territorial integrity of Lebanon, without partition, free from terrorism and violence, and free to determine its future without Soviet or other outside interference;

(5) generous international support for relief, rehabilitation, and humanitarian assistance for Lebanon, particularly for those Lebanese citizens who have suffered from the terrorism and violence of recent events;

(6) restoration of Lebanon's sovereignty free from outside domination or occupation; and

(7) support for a free and open national election.

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[14] 8 U.S.C. 1152 note.

USE OF CHEMICAL AND TOXIN WEAPONS

Sec. 716. (a) The Congress condemns the use of, and the provision for use of, chemical agents and toxin weapons against the peoples of Laos, Kampuchea, or Afghanistan.

(b) It is the sense of the Congress that the President should, acting through the Permanent Representative of the United States to the United Nations and all other appropriate diplomatic agents, seek definite measures to bring to an end actions by any party or government in using, and providing for use, chemical agents or toxin weapons against the peoples of Laos, Kampuchea, and Afghanistan, in violation of the spirit and the provisions of—

(1) The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (done at Washington, London, and Moscow on April 10, 1972); [15]

(2) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (signed at Geneva on June 17, 1925); [15] and

(3) customary international law.

(c) It is further the sense of Congress that the President should—

(1) allocate the highest possible priority to the development of further evidence clarifying the nature and origins of the chemical agents and toxin weapons being used against the peoples of Laos, Kampuchea, and Afghanistan; and

(2) vigorously seek a satisfactory explanation from the Government of the Soviet Union regarding the strong circumstantial and presumptive evidence of its role in the use, or provision for use, of such weapons.

(d) The Congress reiterates the concern expressed in House Resolution 644 (96th Congress), adopted by the House of Representatives on May 19, 1980, regarding the outbreak of pulmonary anthrax near Sverdlosk on April 3, 1979, and expresses its disappointment that the Soviet Union has failed adequately to respond to requests for data explaining this incident as provided in the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

(e) It is further the sense of Congress that the negotiation of a treaty prohibiting the development, production, and stockpiling of chemical weapons, with reliable verification provisions, should be given a high priority by the United States Government and by all foreign governments.

FINANCIAL OBLIGATIONS OF THE SOVIET UNION TO THE UNITED NATIONS

Sec. 717. (a) The Congress finds and declares that—

(1) the financing of the United Nations is the collective responsibility of all member nations;

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[15] For text, see vol. V, sec. F.

(2) the International Court of Justice has determined that the expenses of the United Nations incurred in its peacekeeping operations are properly included as a part of the regular expenses of the United Nations;

(3) peacekeeping operations are vital to the mission of the United Nations and must be adequately financed if such operations are to continue; and

(4) the Government of the Union of Soviet Socialist Republics is currently $180,000,000 in arrears on its payments to the United Nations, primarily as a result of its refusal to pay for the peacekeeping operations of the United Nations.

(b) It is the sense of the Congress that the President, acting through the Permanent Representative of the United States to the United Nations, should undertake a diplomatic initiative to obtain payment by the Government of the Union of Soviet Socialist Republics of all its outstanding financial obligations to the United Nations, including its assessments with respect to the peacekeeping operations of the United Nations.

CONDEMNATION OF LIBYA FOR ITS SUPPORT OF INTERNATIONAL TERRORIST MOVEMENTS

Sec. 718. (a) The Congress condemns the Libyan Government for its support of international terrorist movements, its efforts to obstruct positive movement toward the peaceful resolution of problems in the Middle East region, and its actions to destabilize and control governments of neighboring states in Africa.

(b) The Congress believes that the President should conduct an immediate review of concrete steps the United States could take, individually and in concert with its allies, to bring economic and political pressure on Libya to cease such activities, and should submit a report on that review to the Congress within one hundred and eighty days after the date of enactment of this Act. Such a review should include the possibility of tariffs on or prohibitions against the import of crude oil from Libya.

UNITED STATES CITIZENS ACTING IN THE SERVICE OF INTERNATIONAL TERRORISM

Sec. 719. (a) It is the sense of the Congress that the spread of international terrorism poses a grave and growing danger for world peace and for the national security of the United States. As a part of its vigorous opposition to the activities of international terrorist leaders and the increase of international terrorism, the United States should take all steps necessary to ensure that no United States citizen is acting in the service of terrorism or of the proponents of terrorism.

(b) Not later than six months after the enactment of this Act, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report which includes—

(1) a description of all legislation, currently in force, and of all administrative remedies, presently available, which can be employed to prevent the involvement, service, or participation

by United States citizens in activities in support of international terrorism or terrorist leaders;

(2) an assessment of the adequacy of such legislation and remedies, and of the enforcement resources available to carry out such measures, to prevent the involvement, service, or participation by United States citizens in activities in support of international terrorism or terrorist leaders; and

(3) a description of available legislative and administrative alternatives, together with an assessment of their potential impact and effectiveness, which could be enacted or employed to put an end to the participation of United States citizens in activities in support of international terrorism or terrorist leaders.

NONALIGNED COUNTRIES

Sec. 720. (a) In considering whether to provide assistance, make sales, extend credits, or guarantee loans under the provisions of the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act, to any country represented at the Meeting of Ministers of Foreign Affairs and Heads of Delegations of the Non-Aligned Countries to the 36th General Session of the General Assembly of the United Nations on September 25 and 28, 1981, the President shall take into account whether such country has dissociated itself from the communique issued following the meeting.

(b) Within thirty days after the date of enactment of this section, the President shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the countries which have dissociated themselves from the nonaligned countries communique and on their methods of dissociation.

PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI

Sec. 721.[16] (a)(1) It is the sense of the Congress that up to $15,000,000 of the funds available for the fiscal year 1982 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 should be made available for development assistance for Haiti, subject to the limitation in subsection (b) of this section.

(2) To the maximum extent practicable, assistance for Haiti for the fiscal year 1982 under chapter 1 of part I of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

(b) Funds available for the fiscal year 1982 to carry out chapter 1 of part I or chapter 2 or chapter 5 of part II of the Foreign Assistance Act of 1961 may be expended for Haiti, and credits and guarantees extended for the fiscal year 1982 under the Arms Export Control Act may be approved for use for Haiti, only if the President determines that the Government of Haiti—

(1) is cooperating with the United States in halting illegal emigration from Haiti:

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[16] 22 U.S.C. 2151 note.

(2) is not aiding, abetting, or otherwise supporting illegal emigration from Haiti;

(3) has provided assurances that it will cooperate fully in implementing United States development assistance programs in Haiti (including programs for prior fiscal years); and

(4) is not engaged in a consistent pattern of gross violations of internationally recognized human rights.

(c) Six months after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report on the extent to which the actions of the Government of Haiti are consistent with paragraphs (1), (2), (3), and (4) of subsection (b) of this section.

(d) Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961,[17] funds made available under such Act for the fiscal year 1982 and for the fiscal year 1983 may be used for programs with Haiti to assist in halting significant illegal emigration from Haiti to the United States.

COMPREHENSIVE ANALYSIS OF FOREIGN ASSISTANCE

Sec. 722. (a) It is the sense of Congress that at a time when major retrenchments and reappraisals are being made in domestic programs, it is also logical that, while maintaining past international commitments, the magnitude and direction of future foreign assistance programs should also be reviewed. As part of such a review process, the President is requested to provide a comprehensive report to the Congress on his approach to foreign assistance. Such report shall include an analysis and recommendations on the following issues:

(1) the relationship between foreign assistance and defense expenditures as means of conducting foreign policy;

(2) the appropriate mix between military and economic assistance;

(3) the strengths and weaknesses, and appropriate mix, of bilateral and multilateral assistance programs;

(4) the relevance of the basic human needs approach to current aid policy;

(5) the performance of other aid donors, and the benefits they derive from their programs;

(6) criteria for determining the appropriate size and composition of country programs;

(7) the appropriateness of the current mix of grants and loans, and the possibility of combining them with new or existing guarantee, insurance, and export credit programs;

(8) specific means to more actively engage the private sector in assistance programs; and

(9) the usefulness of current functional categories in constructing the development assistance budget.

(b) The Congress requests that the President provide to the Congress a preliminary report by March 31, 1982, and a final report by June 30, 1982, with respect to the issues referred to in subsection (a).

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[17] For text, see page 242.

EXTERNAL DEBT BURDENS OF EGYPT, ISRAEL, AND TURKEY

Sec. 723. The Congress finds that the Governments of Egypt, Israel, and Turkey each have an enormous external debt burden which may be made more difficult by virtue of financing provided for those governments under various United States assistance programs. In order to assist the Congress in examining United States assistance for these countries, the President shall report to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, not later than one hundred and twenty days after the date of enactment of this Act and not later than one year after the date of enactment of this Act, regarding economic conditions prevailing in Egypt, Israel, and Turkey which may affect their respective ability to meet their international debt obligations and to stabilize their economies. These reports shall also analyze the impact on Egypt's economy of Arab sanctions against Egypt.

NICARAGUA

Sec. 724. (a) In furnishing assistance under this Act to the Government of Nicaragua, the President shall take into account the extent to which that Government has engaged in violations of internationally recognized human rights (including the right to organize and operate labor unions free from political oppression, the right to freedom of the press, and the right to freedom of religion) and shall encourage the Government of Nicaragua to respect those rights.

(b) In furnishing assistance under this Act to the Government of Nicaragua, the President shall take into account the extent to which that Government has fulfilled its pledge of July 1979 to the member states of the Organization of American States—

(1) to establish full respect for human rights in Nicaragua in accordance with the United Nations Universal Declaration of the Rights and Duties of Man and the Charter on Human Rights of the Organization of American States;

(2) to allow the free movement in Nicaragua of the Inter-American Commission on Human Rights; and

(3) to establish the framework for free and democratic elections so that the people of Nicaragua may elect their representatives to city councils, to constitutional assembly, and to Nicaragua's highest-ranking authorities, with such framework to include, but not be limited to, the full and complete opportunity for political activity of the Nicaraguan people.

(c) Assistance to the Government of Nicaragua under this Act shall be terminated if the President determines and reports to the Congress that the Government of Nicaragua cooperates with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries, or that Soviet, Cuban, or other foreign combat military forces are stationed or situated within the borders of Nicaragua and the presence of such forces constitutes a threat to the national security of the United States or to any Latin American ally of the United States.

(d) Any agreement between the United States and the Government of Nicaragua regarding the use of funds appropriated to carry out this Act, which are to be made available in the form of loans, shall specifically require that to the maximum extent possible such loan funds, and any local currency generated in conjunction therewith, shall be used for assistance to the private sector. Local currency loan programs in Nicaragua shall be monitored and audited in accordance with section 624(g) of the Foreign Assistance Act of 1961.

(e) For each six-month period in which any funds are expended under this Act for Nicaragua, the President shall submit to the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate, a report accounting fully and in itemized detail for the amounts obligated and actually expended in Nicaragua.

ASSISTANCE AND SALES FOR ARGENTINA

Sec. 725. (a) Section 620B of the Foreign Assistance Act of 1961 was repealed.

(b) [18] Notwithstanding any other provision of law, assistance may be provided to Argentina under chapter 2, 4, 5, or 6 of part II of the Foreign Assistance Act of 1961, credits (including participations in credits) may be extended and loans may be guaranteed with respect to Argentina under the Arms Export Control Act, defense articles and defense services may be sold to Argentina under the Arms Export Control Act, and export licenses may be issued to or for the Government of Argentina under section 38 of the Arms Export Control Act, only if the President has submitted to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report certifying that—

(1) the Government of Argentina made significant progress in complying with internationally recognized principles of human rights; and

(2) the provision of such assistance, credits, loan guarantees, defense articles, defense services, or export licenses is in the national interests of the United States.

(c) The Congress welcomes the actions of the Government of Argentina to adjudicate numerous cases of those detained under the national executive power of the Argentine Government, and the Congress hopes that progress will continue, especially with regard to providing information on citizens listed as "disappeared" and prisoners remaining at the disposition of the national executive power. In the process of making the determination required in paragraph (1) of subsection (b), among other things, the President shall consider—

(1) efforts by the Government of Argentina to provide information on citizens identified as "disappeared"; and

(2) efforts by the Government of Argentina to release or bring to justice those prisoners held at the disposition of the national executive power (PEN).

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[18] 22 U.S.C. 2370 note.

REPEAL OF LIMITATIONS ON ASSISTANCE, SALES, AND SALES CREDITS FOR CHILE

Sec. 726. (a) Section 406 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2370 note) is repealed.

(b) [18] Notwithstanding any other provision of law—

(1) no assistance may be furnished under chapter 2, 4, 5, or 6 of part II of the Foreign Assistance Act of 1961 to Chile;

(2) no sale of defense articles or services may be made under the Arms Export Control Act to Chile:

(3) no credits (including participation in credits) may be extended and no loan may be guaranteed under the Arms Export Control Act with respect to Chile; and

(4) no export licenses may be issued under section 38 of the Arms Export Control Act to or for the Government of Chile;

unless and until the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report certifying—

(A) that the Government of Chile has made significant progress in complying with internationally recognized principles of human rights;

(B) that the provision of such assistance, articles or services is in the national interest of the United States; and

(C) that the Government of Chile is not aiding or abetting international terrorism and has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile those indicted by a United States grand jury in connection with the murders of Orlando Letelier and Ronni Moffitt.

(c) [19] The prohibition contained in subsection (b) does not prohibit the sale, or the licensing for export, of cartridge actuated devices, propellant actuated devices, and technical manuals for aircraft of the F-5E/F or A/T-37 type which were sold to the Chilean Air Force by the United States before January 1, 1976, so long as the items are provided only for purposes of enhancing the safety of the aircraft crew.

ASSISTANCE FOR EL SALVADOR

Sec. 727. (a) It is the sense of the Congress that assistance furnished to the Government of El Salvador, both economic and military, should be used to encourage—

(1) full observance of internationally recognized human rights in accordance with sections 116 and 502B of the Foreign Assistance Act of 1961;

(2) full respect for all other fundamental human rights, including the right of freedom of speech and of the press, the right to organize and operate free labor unions, and the right to freedom of religion;

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[19] Subsec. (c) was added by sec. 715 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 247).

(3) continued progress in implementing essential economic and political reforms, including land reform and support for the private sector;

(4) a complete and timely investigation of the deaths of all United States citizens killed in El Salvador since October 1979;

(5) an end to extremist violence and the establishment of a unified command and control of all government security forces in this effort;

(6) free, fair, and open elections at the earliest date; and

(7) increased professional capability of the Salvadoran Armed Forces in order to establish a peaceful and secure environment in which economic development and reform and the democratic processes can be fully implemented, thereby permitting a phased withdrawal of United States military training and advisory personnel at the earliest possible date.

(b) It is the sense of the Congress that the United States economic assistance to El Salvador should put emphasis on revitalizing the private sector and supporting the free market system. The Congress recognizes that the lack of foreign exchange to buy imported raw materials and intermediate goods is a major impediment to the ability of the Salvadoran economy to provide jobs. The Congress also recognizes that the funds budgeted for economic assistance are only a fraction of the foreign exchange needed, and United States economic aid should be used, wherever possible, to stimulate private sector lending. Therefore, the Congress urges the President to set aside a portion of the economic support funds to provide guarantees to private United States banks willing to give credits to the Salvadoran private sector.

RESTRICTIONS ON MILITARY ASSISTANCE AND SALES TO EL SALVADOR

Sec. 728.[18] (a)(1) The Congress finds that peaceful and democratic development in Central America is in the interest of the United States and of the community of American States generally, that the recent civil strife in El Salvador has caused great human suffering and disruption to the economy of that country, and that substantial assistance to El Salvador is necessary to help alleviate that suffering and to promote economic recovery within a peaceful and democratic process. Moreover, the Congress recognizes that the efforts of the Government of El Salvador to achieve these goals are affected by the activities of forces beyond its control.

(2) Taking note of the substantial progress made by the Government of El Salvador in land and banking reforms, the Congress declares it should be the policy of the United States to encourage and support the Government of El Salvador in the implementation of these reforms.

(3) The United States also welcomes the continuing efforts of President Duarte and his supporters in the Government of El Salvador to establish greater control over the activities of members of the armed forces and government security forces. The Congress finds that it is in the interest of the United States to cooperate with the Duarte government in putting an end to violence in El Salvador by extremist elements among both the insurgents and the

security forces, and in establishing a unified command and control of all government forces.

(4) The United States supports the holding of free, fair, and open elections in El Salvador at the earliest date. The Congress notes the progress being made by the Duarte government in this area, as evidenced by the appointment of an electoral commission.

(b) In fiscal years 1982 and 1983, funds may be obligated for assistance for El Salvador under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961, letters of offer may be issued and credits and guarantees may be extended for El Salvador under the Arms Export Control Act, and members of the Armed Forces may be assigned or detailed to El Salvador to carry out functions under the Foreign Assistance Act of 1961 or the Arms Export Control Act, only if not later than thirty days after the date of enactment of this Act and every one hundred and eighty days thereafter, the President makes a certification in accordance with subsection (d).

(c) If the President does not make such a certification at any of the specified times then the President shall immediately—

(1) suspend all expenditures of funds and other deliveries of assistance for El Salvador which were obligated under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 after the date of enactment of this Act;

(2) withhold all approvals for use of credits and guarantees for El Salvador which were extended under the Arms Export Control Act after the date of enactment of this Act;

(3) suspend all deliveries of defense articles, defense services, and design and construction services to El Salvador which were sold under the Arms Export Control Act after the date of enactment of this Act; and

(4) order the prompt withdrawal from El Salvador of all members of the Armed Forces performing defense services, conducting international military education and training activities, or performing management functions under section 515 of the Foreign Assistance Act of 1961.

Any suspension of assistance pursuant to paragraphs (1) through (4) of this subsection shall remain in effect during fiscal year 1982 and during fiscal year 1983 until such time as the President makes a certification in accordance with subsection (d).

(d) The certification required by subsection (b) is a certification by the President to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate of a determination that the Government of El Salvador—

(1) is making a concerted and significant effort to comply with internationally recognized human rights;

(2) is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens by these forces:

(3) is making continued progress in implementing essential economic and political reforms, including the land reform program;

(4) is committed to the holding of free elections at an early date and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in El Salvador which have declared their willingness to find and imple-

ment an equitable political solution to the conflict, with such solution to involve a commitment to—

(A) a renouncement of further military or paramilitary activity; and

(B) the electoral process with internationally recognized observers.

Each such certification shall discuss fully and completely the justification for making each of the determinations required by paragraphs (1) through (4).

(e)[20] On making the first certification under subsection (b) of this section, the President shall also certify to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that he has determined that the Government of El Salvador has made good faith efforts both to investigate the murders of the six United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice those responsible for those murders. The second certification required under this section may be made only if it includes a determination by the President that the Government of El Salvador (1) has made good faith efforts since the first such certification was made to investigate the murders of those six United States citizens and to bring to justice those responsible for those murders, and (2) has taken all reasonable steps to investigate the disappearance of journalist John Sullivan in El Salvador in January 1981.[21] The fourth certification required under this section may be made only if it includes a determination by the President that, since the third such certification was made, the Government of El Salvador (1) has made good faith efforts both to investigate the murders of the seven United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice all those responsible for those murders, and (2) has taken all reasonable steps to investigate the killing of Michael Kline in El Salvador in October 1982.[22]

REPORTING REQUIREMENT RELATING TO EL SALVADOR

Sec. 729. (a) Not later than ninety days after the date of enactment of this section, the President shall prepare and transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth—

(1) the viewpoints of all major parties to the conflict in El Salvador and of the influential actors in the Salvadoran political system regarding the potential for and interest in negotiations, elections, and a settlement of the conflict; and

(2) the views of democratic Latin American nations, Canada, the Organization of American States, and European allies of the United States regarding a negotiated settlement to such conflict.

(b) It is the sense of the Congress that the President shall, as soon as possible, send a special envoy or use other appropriate means to consult with and gather information from appropriate representatives of the parties to the Salvadoran conflict, democratic governments of Latin America, Canada, and European allies of the United States regarding the attainment of a negotiated settlement in El Salvador.

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[20] By memorandum of August 10, 1982, the President delegated the functions conferred upon him under subsec. (e) to the Secretary of State (47 F.R. 38099, August 30, 1982).

[21] This sentence was added by Public Law 97-233 (96 Stat. 260).

[22] This sentence was added by Public Law 98-53 (97 Stat. 287).

RESTRICTIONS ON AID TO EL SALVADOR

Sec. 730. None of the funds authorized to be appropriated by this Act may be made available for the provision of assistance to El Salvador for the purpose of planning for compensation, or for the purpose of compensation, for the confiscation, nationalization, acquisition, or expropriation of any agricultural or banking enterprise, or of the properties or stock shares which may be pertaining thereto.

EL SALVADORAN REFUGEES

Sec. 731.[23] It is the sense of the Congress that the administration should continue to review, on a case-by-case basis, petitions for extended voluntary departure made by citizens of El Salvador who claim that they are subject to persecution in their homeland, and should take full account of the civil strife in El Salvador in making decisions on such petitions.

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REPEALS

Sec. 734. (a) * * *

(b) * * *

(c) Except as otherwise explicitly provided by their terms, amendments to the Foreign Assistance Act of 1961 and the Arms Export Control Act which are applicable only to a single fiscal or calendar year or which require reports or other actions on a nonrecurring basis shall be deemed to have expired and shall be removed from law upon the expiration of the applicable time periods for the fulfillment of the required actions.

REPORT ON NUCLEAR ACTIVITIES

Sec. 735. Beginning with the fiscal year 1983 and for each fiscal year thereafter, the President shall prepare and transmit to the Congress, as part of the presentation materials for foreign assistance programs proposed for the fiscal year, a classified report describing the nuclear programs and related activities of any country for which a waiver of section 669 or 670 of the Foreign Assistance Act of 1961 is in effect, including an assessment of—

(1) the extent and effectiveness of International Atomic Energy Agency safeguards at that country's nuclear facilities; and

(2) the capability, actions, and intentions of the government of that country with respect to the manufacture or acquisition of a nuclear explosive device.

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[23] 8 U.S.C. 1157 note.

PROHIBITIONS RELATING TO NUCLEAR TRANSFERS AND NUCLEAR DETONATIONS

Sec. 737.[24] (a) The Congress finds that any transfer of a nuclear explosive device to a non-nuclear-weapon state or, in the case of a non-nuclear-weapon state, any receipt or detonation of a nuclear explosive device would cause grave damage to bilateral relations between the United States and that country.

(b) * * *

(c) * * *

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[24] 22 USC 2429a note.

n. International Security and Development Cooperation Act of 1980

Partial text of Public Law 96-533 [H.R. 6942], 94 Stat. 3131, approved December 16, 1980, as amended by Public Law 97-113 [S. 1196], 95 Stat. 1519, approved December 29, 1981; Public Law 99-83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190 at 264, approved August 8, 1985; and by Public Law 100-461 [H.R. 4637], 102 Stat. 2268, approved October 1, 1988

> NOTE.—Except for the provisions noted below, the International Security and Development Cooperation Act of 1980 consists of amendments to the FA Act of 1961, the International Development and Cooperation Act of 1979, the Arms Export Control Act, the International Security Assistance and Arms Export Control Act of 1976, the Export Administration Act of 1979, the Department of State Authorization Act, Fiscal Years 1980/1981, Public Law 480, the Peace Corps Act, and the Domestic Volunteer Service Act. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize appropriations for the fiscal year 1980 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

Section 1. This Act may be cited as the "International Security and Development Cooperation Act of 1980".

TITLE I—MILITARY AND RELATED ASSISTANCE AND SALES PROGRAMS

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FOREIGN MILITARY SALES AUTHORIZATION AND AGGREGATE CEILING

Sec. 106. (a) * * *

(b) * * *

(c) * * *

(d) [1] The principal amount of the loans guaranteed under section 24(a) of such Act for the fiscal year 1981 with respect to Egypt, the

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[1] 22 U.S.C. 2764.

Sudan, Greece, and Turkey shall be repaid, and with respect to Somalia may be repaid, in not less than twenty years, following a grace period of ten years on repayment of principal.

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EXPORT CONTROLS ON CERTAIN ITEMS ON THE MUNITIONS LIST

Sec. 108. [2] * * * [Repealed—1981]

LEASING OF DEFENSE PROPERTY

Sec. 109. [3] * * * [Repealed—1981]

EXPORTATION OF URANIUM DEPLETED IN THE ISOTOPE 235

Sec. 110. [4] Upon a finding that an export of uranium depleted in the isotope 235 is incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such exports shall be exempt from the provisions of the Atomic Energy Act of 1954 and of the Nuclear Non-Proliferation Act of 1978 when such exports are subject to the controls established under the Arms Export Control Act or the Export Administration Act of 1979.

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MILITARY OR PARAMILITARY OPERATIONS IN ANGOLA

Sec. 118. [5] * * * [Repealed—1985]

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[2] Sec. 108, which had required two reports from the President on which defense articles and defense services, if any, should be removed from the U.S. Munitions List and whether sec. 620B of the Foreign Assistance Act of 1961 (blocking aid and arms sales to Argentina) should be amended, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1560). These reports were submitted to Congress by the President on May 12, 1981.

[3] Sec. 109, which had required the President to report to Congress 30 days prior to leasing defense property to a foreign government for a period of more than 6 months, was repealed by sec. 109(d)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1560). See ch. 6 of the Arms Export Control Act (page 311) for current law concerning leases of defense articles.

[4] 22 U.S.C. 2778a.

[5] Sec. 118, titled "Military or Paramilitary Operations in Angola.", was repealed by sec. 811 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 264). Subsec. (e) of the former section repealed an earlier law which placed limitations on certain assistance to, and activities in, Angola. Sec. 118 formerly read as follows:

"MILITARY OR PARAMILITARY OPERATIONS IN ANGOLA

"Sec. 118. (a) Notwithstanding any other provision of law, no assistance of any kind may be provided for the purpose, or which would have the effect, of promoting or augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola unless and until—

"(1) the President determines that such assistance should be furnished in the national security interests of the United States;

"(2) the President submits to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing—

"(A) a description of the amounts and categories of assistance which he recommends be furnished and the identity of the proposed recipients of such assistance; and

"(B) a certification that he has determined that the furnishing of such assistance is important to the national security interests of the United States and a detailed statement of the reasons supporting such determination; and

"(3) the Congress enacts a joint resolution approving the furnishing of such assistance.

"(b) If introduced within 30 days after the submission of the report required by paragraph (2) of subsection (a), a resolution under paragraph (3) of subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assist-

Continued

PROHIBITION ON MILITARY ASSISTANCE TO NICARAGUA

Sec. 119. [6] None of the funds authorized to be appropriated by this title shall be made available for any aid or assistance to Nicaragua.

TITLE II—ECONOMIC SUPPORT FUND

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TITLE III—DEVELOPMENT ASSISTANCE PROGRAMS

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ASSISTANCE TO THE EASTERN CARIBBEAN

Sec. 313. (a) The Congress urges the President to use up to $7,000,000 for the fiscal year 1981 for bilateral development assistance for the countries of the eastern Caribbean.

(b) [7]* * * [Repealed—1981]

ASSISTANCE FOR EQUATORIAL GUINEA

Sec. 314. The President is urged to provide up to $3,000,000 of the funds authorized to be appropriated for the fiscal year 1981 by this title for assistance to Equatorial Guinea if he deems that conditions in that country warrant such assistance.

CARIBBEAN DEVELOPMENT BANK

Sec. 315. Notwithstanding section 620(r) of the Foreign Assistance Act of 1961,[8] the President may, after consultation with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, make arrangements at his discretion for the assumption by the recipient members of the Caribbean Development Bank of any loans made to the Bank under the authority of that Act.

WORLD HUNGER

Sec. 316. (a) In order to further the purposes of section 103 of the Foreign Assistance Act of 1961, the Director of the United States International Development Cooperation Agency shall encourage the ongoing work of private and voluntary organizations to deal with world hunger problems abroad. To this end, the Director shall

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ance and Arms Export Control Act of 1976 and in the House of Representatives in accordance with the procedures applicable to the consideration of resolutions of disapproval under section 36(b) of the Arms Export Control Act.

"(c) The prohibition contained in subsection (a) does not apply with respect to assistance which is furnished solely for humanitarian purposes.

"(d) The provisions of this section may not be waived under any other provision of law.

"(e) Section 404 of the International Security Assistance and Arms Export Control Act of 1976 is repealed."

[6] 22 U.S.C. 2151 note.

[7] Subsec. (b), which had required a report from the President by February 1, 1981, regarding the implementation of this section, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report on February 6, 1981.

[8] For text, see page 202.

help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty.

(b) As a means of carrying out subsection (a), and to ensure the effectiveness of private and voluntary organizations in dealing with world hunger abroad, the Director is urged to provide assistance to private and voluntary organizations engaged in facilitating public discussion of hunger and other related issues.

REDUCTION OF POSTHARVEST LOSSES OF FOOD

Sec. 317. [9] It is the sense of the Congress that—

(1) the President should reaffirm the policy of the United States Government to support the goal established by the United Nations General Assembly of reducing by 50 percent postharvest losses of food in developing countries; and

(2) the President, acting through the Agency for International Development, should increase substantially the proportion of funds made available under the Foreign Assistance Act of 1961 for the purpose of assisting, together with other donor countries and with developing countries, in the reduction of postharvest losses of food in developing countries.

TITLE IV—OTHER ASSISTANCE PROGRAMS

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INTERNATIONAL NARCOTICS CONTROL

Sec. 402. (a) * * *

(b) * * *

(c) Notwithstanding the provisions of section 482(a)(2) of the Foreign Assistance Act of 1961 as in effect immediately prior to the enactment of this Act, funds appropriated for the fiscal year 1980 to carry out the purposes of section 481 of that Act which were obligated for assistance for Colombia may be used for fixed-wing aircraft, communications equipment, and such other equipment and operational support, including aviation services, as are essential to the Colombian anti-narcotics enforcement program.

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EAST TIMOR

Sec. 408. It is the sense of the Congress that the President should take all appropriate measures to—

(1) continue to support and encourage relief operations by the Government of Indonesia and by international relief agencies in East Timor;

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[9] 22 U.S.C. 21 note.

(2) assist the Government of Indonesia to facilitate the reuniting of families separated because of developments in recent years in East Timor; and

(3) encourage the Government of Indonesia to allow access to East Timor by international journalists.

TITLE V—AFRICAN DEVELOPMENT FOUNDATION

SHORT TITLE

Sec. 501. [10] This title may be cited as the "African Development Foundation Act".

FINDINGS

Sec. 502. [11] The Congress finds that—

(1) social and economic development ultimately depends on the active participation of individuals within a society and on the enhancement of opportunities for those individuals;

(2) the development of individuals and institutions in African countries can benefit by the provision of support for community-based self-help activities;

(3) by enacting title IX of chapter 2 of part I of the Foreign Assistance Act of 1961, and recent amendments to that Act, the Congress has sought to enable the poor to participate in the process of development;

(4) the Inter-American foundation, established by Congress in the Foreign Assistance Act of 1969 to support the efforts of the people of Latin America and the Caribbean to solve their development problems, has demonstrated a successful approach to development; and

(5) an African Development Foundation similar in structure to the Inter-American Foundation, but adapted to the specific needs of Africa, can complement current United States development programs in Africa.

ESTABLISHMENT

Sec. 503. [12] (a) There is established a body corporate to be known as the "African Development Foundation" (hereafter in this title referred to as the "Foundation").

(b) The Foundation shall establish a principal office in the United States and may establish such branch offices in Africa as may be necessary to carry out its functions.

PURPOSES

Sec. 504. [13] (a) In order to enable the people of African countries to develop their potential, fulfill their aspirations, and enjoy better, more productive lives the purposes of the Foundation shall be—

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[10] 22 U.S.C. 290h note.

[11] 22 U.S.C. 290h.

[12] 22 U.S.C. 290h-1.

[13] 22 U.S.C. 290h-2.

(1) to strengthen the bonds of friendship and understanding between the people of Africa and the United States;

(2) to support self-help activities at the local level designed to enlarge opportunities for community development;

(3) to stimulate and assist effective and expanding participation process; and

(4) to encourage the establishment and growth of development institutions which are indigenous to particular countries in Africa and which can respond to the requirements of the poor in those countries.

(b) The Foundation shall carry out the purposes specified in subsection (a) in cooperation with, and response to, organizations indigenous to Africa which are representative of the needs and aspirations of the poor in Africa and, in carrying out such purposes, the Foundation shall, to the extent possible, coordinate its development assistance activities with the activities of the United States Government and private, regional, and international organizations.

FUNCTIONS

Sec. 505. [14] (a)(1) In order to carry out the purposes set forth in section 504, the Foundation may make grants, loans, and loan guarantees to any African private or public group (including public international organizations),[15] association, or other entity engaged in peaceful activities for—

(A) the fostering of local development institutions and the support of development efforts initiated by communities themselves;

(B) the development of self-evaluation techniques by participants in projects supported under this section, for the purpose of transferring experience gained in such projects to similar development activities;

(C) development research by Africans and the transfer of development resources, expertise, and knowledge within Africa;

(D) the procurement of such technical or other assistance as is deemed appropriate by the recipient of such grant, loan, or guarantee, to carry out the purposes of this title; and

(E) other projects that would carry out the purposes set forth in section 504.

(2) The total amount of grants, loans and loan guarantees that may be made under this section for a project may not exceed $250,000.

(3) The Foundation may disseminate to the American public and to United States and multilateral development institutions insights gained from African development projects assisted under this title.

(b) In making grants, loans, and loan guarantees under subsection (a), the Foundation shall give priority to projects which community groups undertake to foster their own development and in the initiation, design, implementation, and evaluation of which there is the maximum feasible participation of the poor. Where appropriate and in keeping with the purposes of this title, the Foundation may make such grants, loans, and loan guarantees to African entities which are representative and knowledgeable of, and sensitive to, the needs and aspirations of the poor and which would disburse funds acquired under such grants, loans, and loan guarantees to other African entities to carry out the purposes of this title.

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[14] 22 U.S.C. 290h-3.

[15] Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268-13) added the parenthetical text.

POWERS

Sec. 506. [16] (a) The Foundation, as a corporation—

(1) shall have perpetual succession unless dissolved by an Act of Congress;

(2) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction;

(3) may adopt, alter, and use a seal, which shall be judicially noticed;

(4) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Foundation;

(5) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Foundation;

(6) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation not exceeding $10,000 in any fiscal year;

(7) may, as necessary for carrying out the functions of the Foundation, employ and fix the compensation of not to exceed the following number of persons at any one time: 25 during the fiscal year 1981, 50 during the fiscal year 1982, and 75 thereafter;

(8) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Foundation;

(9) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this title;

(10) may use the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(11) may, with the consent of any agency of the United States, use the information, services, facilities, and personnel of that agency in carrying out the purposes of this title; and

(12) shall have such other powers as may be necessary and incident to carrying out this title

(b) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used from carrying out the purposes of this title. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

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[16] 22 U.S.C. 290h-4.

(c) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.

(d) Upon termination of the corporate life of the Foundation its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

MANAGEMENT

Sec. 507. [17] (a)(1) The management of the Foundation shall be vested in a board of directors (hereafter in this title referred to as the "Board") composed of seven members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member of the Board to serve as Chairperson of the Board and one member to serve as Vice Chairperson of the Board. Five members of the Board shall be appointed from private life. Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with African affairs. All members of the Board shall be appointed on the basis of their understanding of and sensitivity to community level development processes.

(2) Members of the Board shall be appointed for terms of six years, except that of the members first appointed, as designated by the President at the time of their appointment, two shall be appointed for terms of two years and two shall be appointed for terms of four years. A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of his or her term a member shall continue to serve until a successor is appointed and shall have qualified.

(b) Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Foundation.

(c) A majority of the Board shall constitute a quorum.

(d)(1) The Board of Directors shall appoint a president of the Foundation on such terms as the Board may determine. The president of the Foundation shall receive compensation at a rate not to exceed that provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) Experts and consultants may be employed by the Board as authorized by section 3109 of title 5, United States Code.

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[17] 22 U.S.C. 290h-5.

(e)(1) The Board shall establish an advisory council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable about development activities in Africa. The advisory council may include African recipients of grants, loans, or loan guarantees under this title.

(2) The Board shall, at least once each year, consult the advisory council concerning the objectives and activities of the Foundation.

(3) Members of the advisory council shall receive no compensation for their services but may be allowed travel and other expenses in accordance with section 5703 of title 5, United States Code, which are incurred by them in the performance of their functions under this subsection.

GOVERNMENT CORPORATION CONTROL ACT

Sec. 508. [18] The Foundation shall be subject to title I of the Government Corporation Control Act.

LIMITATION ON SPENDING AUTHORITY

Sec. 509. [19] Any authority provided by this title involving the expenditure of funds (other than the funds made available pursuant to section 510) shall be effective for a fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 510. [20] There are authorized to be appropriated to carry out this title, in addition to amounts otherwise available for that purpose, $3,872,000 for fiscal year 1986 and $3,872,000 for fiscal year 1987. Funds appropriated under this section are authorized to remain available until expended.

EXPIRATION OF AUTHORITIES

Sec. 511. [21] The authority of the Foundation to make grants, loans, and loan guarantees and otherwise to carry out the purposes of this title shall expire on September 30, 1990, except that this section shall not preclude the Foundation from acquiring obligations prior to that date which mature subsequent to that date or from assuming liability prior to that date as a guarantor of obligations which mature subsequent to that date or from continuing as a body corporate and exercising any of its powers subsequent to that date for purposes of the orderly liquidation of its activities.

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[18] 22 U.S.C. 290h-6.

[19] 22 U.S.C. 290h-7.

[20] 22 U.S.C. 290h-8. The authorizations for fiscal year 1986 and fiscal year 1987 were provided by sec. 510 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 264). Authorizations for previous years include: fiscal year 1982—$2,000,000; fiscal year 1983—$2,000,000; fiscal year 1984—$3,000,000; fiscal year 1985—no authorization; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and appropriated the following:

"AFRICAN DEVELOPMENT FOUNDATION

"For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $8,000,000".

[21] 22 U.S.C. 290h-9. Sec. 811 of the International Security Development and Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 264), changed the expiration date of September 30, 1985, to September 30, 1990.

TITLE VI—PEACE CORPS

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UTILIZATION OF RETURNED PEACE CORPS VOLUNTEERS

Sec. 603. [22] * * * [Repealed—1981]

TITLE VII—MISCELLANEOUS PROVISIONS

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INTERAGENCY GROUP ON HUMAN RIGHTS AND FOREIGN ASSISTANCE

Sec. 710. It is the sense of the Congress that—

(1) the Interagency Group on Human Rights and Foreign Assistance has been an effective mechanism for coordinating and implementing United States human rights policies;

(2) the President should consider establishing the Interagency Group on a more permanent basis;

(3) the Interagency Group should examine proposals for not only economic assistance but also for security assistance; and

(4) the President should report his recommendations for strengthening the Interagency Group to the Congress no later than July 1, 1981.

PEACE IN THE MIDDLE EAST

Sec. 711. [23] (a) It is the sense of the Congress that all parties to the Arab-Israeli conflict need to reaffirm their unequivocal commitment to the peace process in order to achieve further progress toward a comprehensive settlement, to reinforce the principles of the Camp David accords, and to take actions to encourage parties not currently involved in the peace process to become active participants in peace efforts.

(b) It is further the sense of the Congress that to further these goals (1) all parties to the conflict should accept Israel's unequivocal right to exist within secure and recognized borders; (2) the Governments of Israel and Egypt should maintain and strengthen their commitment to the process of normalization of relations and continue actions to support that commitment; (3) the Governments of Israel and Egypt should reaffirm their commitment to United Nations Resolution 242 and its applicability, in all its aspects, to territories under negotiations; and (4) the governments of countries in the Middle East should assure that their policies and actions are consistent with the objectives of achieving peace and of involving other parties in the peace process.

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[22] Sec. 603, which had required a report from the Director of the Peace Corps on a plan for more effective utilization of returned Peace Corps volunteers, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The Director submitted this report to Congress on January 15, 1981.

[23] 22 U.S.C. 3401 note.

ASSISTANCE FOR JORDAN

Sec. 712. It is the sense of the Congress that for Jordan to receive any funds authorized to be appropriated by this Act, it should be judged by the President that Jordan is acting in good faith to achieve peace in the Middle East and that the expenditure of such funds for Jordan will serve to further peace in the Middle East.

EXTERNAL DEBT BURDENS OF EGYPT, ISRAEL, PORTUGAL, AND TURKEY

Sec. 713. [24] * * * [Repealed—1981]

SOVIET MILITARY PERSONNEL AND ACTIVITIES IN CUBA

Sec. 714. [24] * * * [Repealed—1981]

CUBAN REFUGEES

Sec. 715. (a) The Congress finds that—

(1) the flow of refugees for political, economic, or other compelling reasons is a growing and world-wide phenomenon;

(2) the United States represents freedom of thought and action and economic opportunity and has historically played a major role in providing a home to the refugees of the world;

(3) an orderly and lawful refugee process is necessary for the furtherance of United States domestic well-being;

(4) continuation of the traditional compassionate and humanitarian policy of the United States regarding entry to its shores of refugees and other victims of oppression is threatened by the precipitate influx of large numbers of Cubans fleeing their country;

(5) the United States has sought to negotiate with the Government of Cuba to establish a lawful, safe, and orderly process by which Cubans may be allowed to leave their country; and

(6) the Cuban refugee crisis is a problem of international concern and other nations should contribute to its resolution.

(b)(1) The Congress urges the President to take the necessary steps to encourage and secure greater international cooperation with respect to the large number of Cuban natives who have recently fled or are attempting to flee Cuba. Such steps should include seeking the agreement of other countries to admit some of those persons into their respective countries and to contribute funds and other assistance for the resettlement of those persons.

(2) In order to encourage countries throughout the world which are recipients of United States bilateral and multilateral assistance to permit and to help finance the resettlement of Cuban and other

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[24] Sec. 713, which had required a report from the President regarding the economic conditions prevailing in Egypt, Israel, Portugal, and Turkey which may affect their respective ability to meet their international debt obligations and to stabilize their economies, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on January 19, 1981. A similar report concerning Egypt, Israel, and Turkey is required by sec. 723 of Public Law 97-113. For text, see page 414.

Sec. 714, which had required quarterly and annual reports to Congress regarding the military capabilities and deployment of Soviet military personnel in Cuba and Soviet military assistance to the armed forces of Cuba, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

refugees within their borders, the President shall, to the maximum extent feasible, attempt to channel such assistance to countries which have demonstrated a willingness to provide assistance to Cuban and other refugees.

(c) It is the sense of the Congress that, in carrying out subsection (b)(1), the President should seek the discussion, in an appropriate international forum such as the United Nations or the Organization of American States, of the situation involving the flight of large numbers of Cuban natives from Cuba, of the resettlement of Cuban refugees, and of means by which a more orderly process may be established to handle future crises of a similar nature.

INCARCERATION AND DEPORTATION OF CERTAIN CUBANS

Sec. 716. [25] The Congress finds that the United States Government has already incarcerated recently arrived Cubans who are admitted criminals, are security threats, or have incited civil disturbances in Federal processing facilities. The Congress urges the Executive branch, consistent with United States law, to seek the deportation of such individuals.

PROHIBITION ON ASSISTANCE TO THE GOVERNMENTS OF CUBA, VIETNAM, AND CAMBODIA

Sec. 717. None of the funds authorized to be appropriated by this Act may be used to provide assistance to the Governments of Cuba, Vietnam, or Cambodia. Nothing in this section shall be construed to prohibit food assistance or humanitarian assistance which is distributed directly to the people of Cambodia.

COOPERATION OF OTHER GOVERNMENTS IN THE BOYCOTT OF THE 1980 SUMMER OLYMPIC GAMES IN MOSCOW

Sec. 718. In determining the levels of assistance to be provided to a foreign government with funds authorized to be appropriated by this Act, the President shall take into account the position of that government with respect to the United States proposed boycott of the 1980 summer Olympic games in Moscow.

ELECTIONS IN UGANDA

Sec. 719. The President shall encourage the holding of free, open elections in Uganda and shall, in considering assistance for Uganda with funds authorized to be appropriated by this Act, take into account whether such elections are held.

REPORT TO CONGRESS ON THE IMPLEMENTATION OF THE LANCASTER HOUSE DECLARATION OF RIGHTS IN ZIMBABWE

Sec. 720. [26] * * * [Repealed—1981]

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[25] 8 U.S.C. 1522 note.

[26] Sec. 720, which had required a report from the President every 60 days during fiscal year 1981 (if Zimbabwe received assistance under this Act) regarding the internal situation in Zimbabwe, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

RESTRICTION ON ASSISTANCE TO EL SALVADOR

Sec. 721. [27] * * * [Repealed—1981]

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[27] Sec. 721, which had prohibited the use of assistance for El Salvador during fiscal year 1981 for the purpose of planning for compensation, or for the purpose of compensation, for the confiscation, nationalization, acquisition, or expropriation of any agricultural or banking enterprise, or of the properties or stock shares which may be pertaining thereto, was repealed by sec. 734(a)(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

o. International Development Cooperation Act of 1979

Partial text of Public Law 96-53 [H.R. 3324], 93 Stat. 359, approved August 14, 1979, as amended by Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2162, approved October 17, 1980; Public Law 96-533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3148, approved December 16, 1980; Public Law 97-113 [S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981; and by Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1061, approved November 22, 1983

NOTE.—Except for the provisions noted below, the International Development Cooperation Act of 1979 consists of amendments to the FA Act of 1961, the International Development and Food Assistance Act of 1978, the International Development and Food Assistance Act of 1977, Public Law 480, Title 5 of the United States Code, and the Peace Corps Act. These amendments are incorporated into the texts of these Acts at the appropriate locations.

AN ACT To authorize appropriations for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development Cooperation Act of 1979".

TITLE I—DEVELOPMENT ASSISTANCE

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INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 114. (a) * * *

(b) Notwithstanding any other provision of law, funds appropriated for the fiscal year 1979 to meet the annual obligations of membership of the United States in the United Nations and its specialized agencies may be made available for the furnishing of technical assistance by the United Nations and its specialized agencies.

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PROHIBITION ON ASSISTANCE TO PANAMA

Sec. 124. [1] * * * [Repealed—1981]

ASSISTANCE TO LATIN AMERICAN AND CARIBBEAN COUNTRIES

Sec. 125. [2] It is the sense of the Congress that the United States should place greater emphasis on public and private resources for development programs in Latin America and the Caribbean which address problems common to the Western Hemisphere. It is further the sense of the Congress that provision of such assistance to Latin American and Caribbean countries, including transitional developing countries, is consistent with the purposes of part I of the Foreign Assistance Act of 1961.

INCREASED CONTRIBUTIONS FOR DEVELOPMENT ASSISTANCE

Sec. 126. [2] In recognition of the rapidly growing economic strength and ability to contribute to international development and security efforts of other nations, it is the sense of the Congress that the President should take all appropriate steps to negotiate with those nations with adequate financial resources to provide assistance to increase their contributions for development assistance through multilateral programs as well as through bilateral efforts.

TITLE II—FOOD FOR PEACE

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TITLE III—PEACE CORPS

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TITLE IV—INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

STATEMENT OF POLICY

Sec. 401. [3] As declared by Congress in the Foreign Assistance Act of 1961, a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives. The Congress reaffirms the profound humanitarian and foreign policy concerns of the United States in the economic and social progress of the developing countries and in the alleviation of the worst physical manifestations of poverty in these countries.

In furtherance of that objective, the Congress recognizes that developing countries require extensive scientific and technological capacity in order to deal effectively with their development problems, relate to the industrialized nations, and constructively participate in the shaping of a stable world order.

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[1] Sec. 124, which had prohibited assistance for Panama during fiscal year 1980 unless the President determined that such aid was in the national interest, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[2] 22 U.S.C. 2151 note.

[3] 22 U.S.C. 3501.

It is therefore in the mutual interest of the United States and the developing countries to increase scientific and technological cooperation and jointly to support long-term research on critical problems that impede development and limit the efficient use of the world's human, natural, and capital resources.

PURPOSES AND ESTABLISHMENT OF THE INSTITUTE

Sec. 402. [4] (a) To strengthen the capacity of the people of developing countries to solve their development problems through scientific and technological innovation, to foster research on problems of development, and to facilitate scientific and technological cooperation with developing countries, the President is authorized to establish an Institute for Scientific and Technological Cooperation (hereafter in this title referred to as the "Institute"), which shall be subject to the foreign policy guidance of the Secretary of State.

(b) The Institute shall be guided by the policies set forth in sections 101 and 102 of the Foreign Assistance Act of 1961 and shall direct a substantial share of its resources to those objectives.

FUNCTIONS OF THE INSTITUTE

Sec. 403. [5] (a) In carrying out its purposes, the Institute shall—

(1) assist developing countries to strengthen their own scientific and technological capacity in order for them to undertake the research and experimentation necessary for development;

(2) support research, in the United States and in developing countries, on critical development problems, with emphasis on research relating to technologies which are labor-intensive or which do not generate additional unemployment or underemployment and with emphasis on those problems which are the greatest impediment to improvement in the lives of the majority of the poor;

(3) foster the exchange of scientists and other technological experts with developing countries, and other forms of exchange and communication to promote the joint solution of problems of mutual concern to the United States and developing countries;

(4) advise and assist other agencies of the United States Government in planning and executing policies and programs of scientific and technological cooperation with developing countries;

(5) facilitate the participation of private United States institutions, businesses, and individuals in scientific and technological cooperation with developing countries; and

(6) gather, analyze, and disseminate information relevant to the scientific and technological needs of developing countries.

(b) In carrying out the functions specified in subsection (a), the Institute shall take particular care to review all of its programs, projects, and other activities to ensure that technologies which are developed, utilized, or promoted are assessed with regard to minimizing any new problems and that participants in such programs, projects, and activities are fully aware of the need for such review with respect to any technology-related activities for which they are responsible.

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[4] 22 U.S.C. 3502.

[5] 22 U.S.C. 3503.

(c) For purposes of carrying out the functions of the Institute, the President may utilize, in addition to authorities conferred by this title, such authority contained in the Foreign Assistance Act of 1961, the Foreign Service Act of 1980,[6] title V of the Foreign Relations Authorization Act, Fiscal Year 1979, and title IV of the International Development and Food Assistance Act of 1978, as the President deems necessary.

(d) The Institute shall carry out its functions in consultation and cooperation with the agencies of the United States Government, international organizations, and agencies of other governments engaged in promoting economic, social, and technological development in developing countries.

(e) The President shall prescribe appropriate procedures to assure coordination of the activities of the Institute with other activities of the United States Government in furthering the use of science and technology in the cause of development.

GENERAL AUTHORITIES

Sec. 404. [7] (a) To carry out the purposes and functions of the Institute, the President may—

(1) make and perform contracts and other agreements with any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and with governments or government agencies, domestic or foreign;

(2) make advances, grants, and loans to any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and to governments or government agencies, domestic or foreign;

(3) employ such personnel as necessary and fix their compensation;

(4) make provision for compensation, transportation, housing, subsistence (or per diem in lieu thereof), and health care or health and accident insurance for foreign nationals engaged in activities authorized by this title while they are away from their homes, without regard to the provisions of any other law;

(5) accept and use money, funds, property, and services of any kind by gift, devise, bequest, grant, or otherwise in furtherance of the purposes of the Institute;

(6) acquire by purchase, lease, loan, bequest, or gift and hold and dispose of by sale, lease, loan, or grant, real and personal property of all kinds;

(7) prescribe, amend, and repeal such rules and regulations as may be necessary to the conduct of the business of the Institute;

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[6] This reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(11) of Public Law 96-465 (94 Stat. 2162).

[7] 22 U.S.C. 3504.

(8) utilize information, services, facilities, officers, and employees of any agency of the United States Government;

(9) establish a principal office in the United States and such other offices within or outside the United States, as may be necessary;

(10) make such expenditures as may be necessary for administering the provisions of this title;

(11) adopt, alter, and use an official seal for the Institute, which shall be judicially noticed; and

(12) take such other actions as may be necessary and incidental to carrying out the functions of the Institute.

(b) Any authority provided by this section involving the expenditures of appropriated funds shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

DIRECTOR OF THE INSTITUTE

Sec. 405. [8] (a) There shall be a Director of the Institute (hereafter in this title referred to as the "Director") who shall be the chief executive officer of the Institute. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate payable for level III of the Executive Schedule under section 5314 of title 5 of the United States Code.

(b) The President may exercise any authorities conferred upon him by this title through the Director or any other agency or officer of the United States Government as he shall direct. The Director or head of any such agency or any such officer may delegate to any of his subordinates authority to perform any of such functions.

DEPUTY DIRECTOR AND OTHER STATUTORY OFFICERS

Sec. 406. [9] (a) A Deputy Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall receive compensation at the rate payable for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

(b) The Deputy Director shall perform such duties and exercise such powers as the Director may prescribe.

(c) The President may establish up to two additional positions in the Institute to be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5 of the United States Code.

COUNCIL ON INTERNATIONAL SCIENTIFIC AND TECHNOLOGICAL COOPERATION

Sec. 407. [10] (a) In order to further the purposes of the Institute, the President is authorized to establish a Council on International

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[8] 22 U.S.C. 3505.

[9] 22 U.S.C. 3506.

[10] 22 U.S.C. 3507.

Scientific and Technological Cooperation (hereafter in this title referred to as the "Council").

(b)(1) The Council shall—

(A) advise the Director with respect to the policies, programs, planning, and procedures of the Institute;

(B) make recommendations to the Director on the use of the resources available to the Institute; and

(C) advise the Director on matters involving the activities of the Institute overseas and appropriate relationship with the private sector, within and outside the United States.

(2) The Council shall prepare an annual report setting forth the major recommendations made and advice given pursuant to paragraph (1) of this subsection.

(c) The Director shall seek the advice of the Council before making any decision with respect to the selection or termination of, or any significant change in, the areas and issues in which the Institute conducts its activities, and with respect to the transfer of specific programs and projects from any other Government agency to the Institute. The Council shall have the authority to review all new programs and initiatives before their implementation and to make recommendations with regard to the approval or disapproval of new programs and initiatives having a cost in excess of $500,000 or a duration greater than two years.

(d) The Council shall consist of up to twenty-five members appointed by the President, one of whom the President shall designate as Chairman. The members of the Council shall be appointed for terms of four years, except that the members first appointed shall be appointed for terms of one, two, three, or four years, as designated by the President at the time of their appointment, so that the terms of approximately one-fourth of the members of the Council expire in any year. The members of the Council shall be selected from among—

(1) citizens of the United States who are widely recognized for their broad knowledge of, or expertise in, science and technology, or their interest in the scientific and technological problems of developing countries;

(2) citizens of foreign countries who by their knowledge and expertise are capable of providing advice and guidance to the Institute on the application of science and technology to the problems of developing countries, except that not more than one-third of the membership of the Council shall consist of members who are citizens of foreign countries; and

(3) officials of the United States Government, except that not to exceed five members of the Council may be appointed under this paragraph, one of whom shall be the Secretary of State or his designee.

(e) Members of the Council who are not officials of the United States Government shall be entitled to compensation, not to exceed the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5 of the United States Code, while in the performance of their duties under this title, and to reimbursement for expenses and per diem in lieu of subsistence while away from their homes or regular places of business in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. Members of the Council who are not officials of the United States Government shall not be deemed officers, employees, or otherwise in the service or employment of the United States Government for any purpose, except that members of the Council who are United States citizens shall be deemed Government employees for the purposes of sections 202, 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(f) The Council may appoint from among its members an Executive Committee, and such other committees it deems necessary, to assist it in exercising its powers and functions. The Executive Committee shall consist of seven members, one of whom shall be the Chairman of the Council and not more than three of whom shall be employees of the United States Government. The Executive Committee shall exercise such powers and functions as are delegated to it by the Council.

INSTITUTE FELLOWSHIPS

Sec. 408. [11] (a) The President is authorized to award up to twenty fellowships annually for periods up to two years, such awards to be renewable for an additional period not to exceed two years, to individuals who have demonstrated exceptional competence and ability in the fields of scientific, technological, economic, or social endeavor selected by the Institute for concentration. The awards shall be made so as to encompass a wide diversity of disciplines and backgrounds, and shall be made on the basis of criteria established by the President upon the advice of the Council. Up to ten of the awards in any year may be made to citizens of countries other than the United States. Individuals awarded fellowships shall be designated as Institute Fellows.

(b) The President may assign Institute Fellows to undertake such activities, in the United States or abroad, as will further the purposes of the Institute.

(c) The amount of the awards made pursuant to this section shall be established by the President, but shall not in any case exceed the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5 of the United States Code. In addition, where appropriate, the President may make provisions for transportation, housing (when assigned outside country of residence), subsistence (or per diem in lieu thereof), and health care or health or accident insurance for Institute Fellows and their dependents while engaged in activities authorized by this title.

(d) Except as provided otherwise in this section, Institute Fellows shall not be deemed employees or otherwise in the service or employment of the United States Government. Institute Fellows shall be considered employees for purposes of compensation of injuries under chapter 81 of title 5 of the United States Code and the tort claim provisions of chapter 171 of title 28 of the United States Code. In addition, Institute Fellows who are United States citizens shall be considered Government employees for purposes of sections 202, 203, 205, 207, 208, and 209 of title 18 of the United States Code.

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[11] 22 U.S.C. 3508.

(e) Alien participants in any program of the Institute, including Institute Fellows and their dependents, may be admitted to the United States, if otherwise qualified as non-immigrants under section 101(a)(15) of the Immigration and Nationality Act, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

CONFLICT OF INTEREST

Sec. 409. [12] Members of the Council and Institute Fellows shall avoid any action, in their activities with respect to the Institute, which might result in, or create the appearance of, a conflict of interest, including but not limited to—

(1) using their office or position for private gain;

(2) giving preferential treatment to any person;

(3) making recommendations or decisions relating to any activity authorized by this title in other than an impartial and independent manner;

(4) misusing Government property or official information obtained through their office or position which has not been made available to the general public; or

(5) affecting adversely the confidence of the public in the integrity of the Institute.

AUTHORIZATION OF APPROPRIATIONS

Sec. 410. [13] There are authorized to be appropriated to the President to carry out this title, in addition to funds otherwise available for such purpose, $12,000,000 for the fiscal year 1981.[14] Funds appropriated under this section are authorized to remain available until expended.

ANNUAL REPORT

Sec. 411. [15] * * * [Repealed—1983]

CONFORMING AMENDMENTS

Sec. 412. (a) Section 5314 of title 5 of the United States Code, relating to level III of the Executive Schedule, is amended by adding at the end thereof the following:

"(70) Director, Institute for Scientific and Technological Cooperation."

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[12] 22 U.S.C. 3509.

[13] 22 U.S.C. 3510.

[14] The authorization figure for fiscal year 1981 was added by sec. 312 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3148). The authorization for fiscal year 1980 was $23,750,000. However, these funds were never appropriated.

[15] Sec. 411, which had required an annual report to Congress regarding the operations of the Institute, was repealed by sec. 1011(a)(6) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164, 97 Stat. 1061).

(b) Section 5315 of title 5 of the United States Code, relating to level IV of the Executive Schedule, is amended by adding at the end thereof the following:

"(128) Deputy Director, Institute for Scientific and Technological Cooperation.".

(c) Section 5316 of title 5 of the United States Code, relating to level V of the Executive Schedule, is amended by adding at the end thereof the following:

"(152) Additional officers, Institute for Scientific and Technological Cooperation (2).".

ESTABLISHMENT IN INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Sec. 413. [16] Upon the establishment of the United States International Development Cooperation Agency pursuant to Reorganization Plan Numbered 2 of 1979, the Institute shall be established within such Agency.

EXPIRATION OF AUTHORITIES

Sec. 414. [17] The authorities contained in this title shall expire on September 30, 1984.

TITLE V—MISCELLANEOUS PROVISIONS

EARMARKING FOR LEBANON OF UNOBLIGATED BALANCES IN THE MIDDLE EAST SPECIAL REQUIREMENTS FUND

Sec. 501. Of the funds continued available for the fiscal year 1979 for the Middle East Special Requirements Fund by section 103 of the Foreign Assistance and Related Programs Appropriations Act, 1979, which are unobligated on the date of enactment of this Act, $5,000,000 shall be available only for Lebanon and may hereafter be continued available only for such country.

MILITARY ASSISTANCE TO SUDAN

Sec. 502. [18] In addition to the amount authorized to be appropriated for grant military assistance for the fiscal year 1980 by section 504(a)(1) of the Foreign Assistance Act of 1961, there is authorized to be appropriated to carry out the purposes of chapter 2 of part II of that Act for the fiscal year 1980 $1,700,000. Not more than $1,700,000 of the funds available to carry out that chapter for the fiscal year 1980 may be allocated and made available for assistance for Sudan. For purposes of the last sentence of section 504(a)(1) and for purposes of section 515(b)(1) of the Foreign Assistance Act of 1961, this section shall be deemed to be part of such section 504(a)(1).

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[16] 22 U.S.C. 3512. The International Development Cooperation Agency was established by sec. 1101 of Executive Order 12163, effective Oct. 1, 1979. See sec. 14 of this E.O. for language pertinent to the Institute.

[17] 22 U.S.C. 3513.

[18] 22 U.S.C. 2312 note.

HUMAN RIGHTS REPORTS

Sec. 504. (a) * * *

(b) [19] * * * [Repealed—1981]

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PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, AND CUBA

Sec. 506. [20] * * * [Repealed—1981]

NONPROLIFERATION OF NUCLEAR WEAPONS

Sec. 507. [21] (a) In accordance with the Nuclear Non-Proliferation Act of 1978, the Congress strongly urges all nations which are not parties to the Treaty on Non-Proliferation of Nuclear Weapons to become parties to that treaty.

(b) [22] * * * [Repealed—1981]

ACCELERATED LOAN REPAYMENTS

Sec. 508. (a) * * *

(b) [23] * * * [Repealed—1981]

REFUGEE CRISIS IN SOUTHEAST ASIA

Sec. 509. (a)(1) The refugee crisis in Indochina is unfolding as one of the great human tragedies of our time.

(2) At least seven hundred and fifty thousand human beings have fled Vietnam, Kampuchea, and Laos since the spring of 1975.

(3) Approximately three hundred thousand human beings currently remain in refugee camps throughout Southeast Asia.

(4) As many as two hundred and fifty thousand human beings may have perished in their attempts to reach freedom and many thousands more face death should the present situation continue.

(5) The international borders are closing to the refugees fleeing from Indochina.

(6) The international community has failed to respond adequately to the crisis, despite the existence of adequate mechanisms to respond.

(b) It is the sense of the Congress that the President should continue to support the efforts of the Secretary General of the United

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[19] Subsec. (b), which had required a report from the Secretary of State on the impact on U.S. foreign relations of the human rights reports required by the Foreign Assistance Act of 1961, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The Secretary of State submitted this report to Congress on November 15, 1979.

[20] Sec. 506, which had prohibited aid to Vietnam, Cambodia, and Cuba during fiscal year 1980, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[21] 22 U.S.C. 3201 note.

[22] Subsec. (b), which had required a report from the Secretary of State specifying what efforts the Department of State had made to encourage nations which are not parties to the Treaty on Nonproliferation of Nuclear Weapons to become parties to such treaty, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The Secretary of State submitted this report to Congress on November 19, 1979.

[23] Subsec. (b), which had required that the annual reports on foreign assistance submitted to Congress in 1980 and 1981 describe the efforts made to negotiate accelerated loan repayments, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

Nations to use appropriate fora to deal with the refugee crisis in Southeast Asia.

(c)[24] * * * [Repealed—1981]

CERTAIN TRAVEL EXPENSES

Sec. 510. Section 5924(4)(B) of title 5, United States Code,[25] is amended by striking out "one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or" and inserting in lieu thereof "(i) in the case of dependents traveling to obtain secondary education, one annual trip, or in the case of dependents traveling to obtain undergraduate college education, two annual trips, each way for each dependent of an employee of the Department of State, of the International Communication Agency, or of the Agency for International Development, or (ii)".

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EFFECTIVE DATES

Sec. 512. (a) Except as provided in subsection (b) of this section and in section 503(b), this Act shall take effect on October 1, 1979.

(b) Sections 114(b), 123, 501, and 509 of this Act shall take effect on the date of enactment of this Act.

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[24] Subsec. (c), which had required periodic reports from the President on the prospects for permanent resettlement of Indochinese refugees so that no disruption of the economy of a host country would result, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[25] Sec. 5924 of title 5, U.S.C., provides for certain costs of living allowances for U.S. Government employees living in a foreign area.

p. International Security Assistance Act of 1979

Partial text of Public Law 96-92 [H.R. 3173] 93 Stat. 701, approved October 29, 1979, as amended by Public Law 97-113 [S. 1196], 95 Stat. 1529 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Security Assistance Act of 1979 consists of amendments to the Foreign Assistance Act of 1961 and the Arms Export Control Act.

AN ACT To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1980, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Security Assistance Act of 1979".

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STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

Sec. 6. (a) * * *

(b) [1] * * * [Repealed—1981]

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AUTHORIZATION AND AGGREGATE CEILING FOR FOREIGN MILITARY SALES CREDITS

Sec. 17. (a) * * *

(b) [2] Of the principal amount of loans guaranteed for the fiscal year 1980 under section 24 of the Arms Export Control Act—

(1) with respect to Turkey, not to exceed $50,000,000,

(2) with respect to Greece, not to exceed $42,000,000, and

(3) with respect to Sudan, not to exceed $25,000,000,

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[1] Subsec. (b) which had required a report from the President regarding the stockpiling authorities for the Republic of Korea, was repealed by sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on January 2, 1980.

[2] 22 U.S.C. 2271 note.

shall be repaid in not less than 20 years, following a grace period of 10 years on repayment of principal.

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NATIONAL DISCLOSURE POLICY FOR SENSITIVE WEAPONS TECHNOLOGY

Sec. 20. (a)[3] * * * [Repealed—1981]

(b) * * *

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TRANSFER OF WAR RESERVE MATERIEL AND OTHER PROPERTY TO TAIWAN

Sec. 23.[4] (a) Notwithstanding any other provision of law, during the calendar year 1980 the President is authorized to transfer to Taiwan under such terms and conditions as he may deem appropriate, such United States war reserve materiel that was located on Taiwan on January 1, 1979, as he may determine.

(b) Notwithstanding any other provision of law, during the calendar years 1979 and 1980 the President is authorized to transfer to Taiwan, under such terms and conditions as he may deem appropriate, such rights of the United States in property (other than war reserve materiel) that was located on Taiwan on January 1, 1979, as he may determine.

AMMUNITION SOLD TO THAILAND

Sec. 24. The Royal Thai Government shall be released from its contractual obligation to pay to the United States Government such amount as is due on or before October 30, 1979, as a condition precedent under the letter of offer accepted by the Royal Thai Government on April 12, 1977, to the transfer of title to the last increment of United States ammunition stocks sold to the Royal Thai Government under such letter of offer pursuant to the Memorandum of Agreement of March 22, 1977, relating to the storage of ammunition in Thailand.

ASSISTANCE FOR JORDAN

Sec. 25.[5] * * * [Repealed—1981]

SHABA AIRLIFT

Sec. 26. Notwithstanding any other provision of law, the President is authorized to make available the services of the Department of Defense for the purpose of facilitating the removal from Zaire of those foreign armed forces which were transported to Zaire by the United States at the time of the crisis in Shaba Province in 1978.

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[3] Subsec. (a), which had required a report from the President concerning the results of a review of the interagency procedures and disclosure criteria used by the U.S. in determining whether sensitive weapons technology will be transferred to other countries, was repealed by sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on March 25, 1980.

[4] 22 U.S.C. 3302 note.

[5] Sec. 25, which had required a determination and report by the President that Jordan was acting in good faith to achieve further progress toward a comprehensive peace settlement in the Middle East before funds could be used for assistance to Jordan during fiscal year 1980, was repealed by sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). Such a determination was transmitted to Congress on January 10, 1980.

FISCAL YEAR 1979 SUPPLEMENTAL AUTHORIZATION FOR TURKEY

Sec. 27. [6] (a) It is hereby determined that the national interests of the United States would be served by the furnishing of additional economic support fund assistance to Turkey in order to promote the economic and political stability of that country, and to strengthen its ability to fulfill its responsibilities as a member of the North Atlantic Treaty Organization.

(b) In furtherance of subsection (a) of this section, and in addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the President to carry out the purposes of chapter 4 of part II of the Foreign Assistance Act of 1961 $100,000,000 for the fiscal year 1979, which amount shall be available only for Turkey.[7]

(c) Amounts appropriated under this section may be made available until expended.

(d) Notwithstanding any assistance authorized for Turkey under this Act, it remains the policy of the United States that all foreign troops in Cyprus, except those stationed in Cyprus under the auspices of the United Nations, should be withdrawn from Cyprus.

(e) It is the sense of the Congress that the recent announcement by the leaders of the Greek Cypriots and the Turkish Cypriots to resume intercommunal negotiations is an encouraging recognition by the parties that the human rights and fundamental freedoms of all the citizens of the Republic of Cyprus will be respected. The Congress urges all parties to the negotiations to demonstrate good faith in the negotiations and to move promptly toward a full, just, and lasting settlement.

PROHIBITION ON ASSISTANCE TO PANAMA

Sec. 28. [8] * * * [Repealed—1981]

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[6] 22 U.S.C. 2346c note.

[7] Supplemental Appropriations Act, 1979 (Public Law 96–38, 93 Stat. 102) provided an additional $100,000,000 for the Economic Support Fund for Turkey, "to remain available until expended."

[8] Sec. 28, which had prohibited assistance to Panama during fiscal year 1980 (unless the President determined that such assistance was in the U.S. national interest), was repealed by sec. 734(a)(11) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1560). The President transmitted a determination to Congress on December 28, 1979, waiving the prohibition contained in sec. 28.

q. Special International Security Assistance Act of 1979

Public Law 96–35 [S. 1007], 93 Stat. 89, approved July 20, 1979, as amended by Public Law 97–113 [S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

AN ACT To authorize supplemental international security assistance for the fiscal year 1979 in support of the peace treaty between Egypt and Israel, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Special International Security Assistance Act of 1979".

STATEMENT OF POLICY AND FINDINGS

Sec. 2. [1] (a) It is the policy of the United States to support the peace treaty concluded between the Government of Egypt and the Government of Israel on March 26, 1979. This treaty is a significant step toward a full and comprehensive peace in the Middle East. The Congress urges the President to continue to exert every effort to bring about a comprehensive peace and to seek an end by all parties to the violence which could jeopardize this peace.

(b) The peace treaty between Egypt and Israel having been ratified, the Congress finds that the national interests of the United States are served—

(1) by authorizing the President to construct air bases in Israel to replace the Israeli air bases on the Sinai peninsula that are to be evacuated;

(2) by authorizing additional funds to finance procurements by Egypt and Israel through the fiscal year 1982 of defense articles and defense services for their respective security requirements; and

(3) by authorizing additional funds for economic assistance for Egypt in order to promote the economic stability and development of that country and to support the peace process in the Middle East.

(c) The authorities contained in this Act to implement certain arrangements in support of the peace treaty between Egypt and Israel do not signify approval by the Congress of any other agreement, understanding, or commitment made by the executive branch.

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[1] 22 U.S.C. 3401.

CONSTRUCTION OF AIR BASES IN ISRAEL

Sec. 3. [2] * * *

SUPPLEMENTAL AUTHORIZATION OF FOREIGN MILITARY SALES LOAN GUARANTIES FOR EGYPT AND ISRAEL

Sec. 4. [3] (a) The Congress finds that the legitimate defense interests of Israel and Egypt require a one time extraordinary assistance package due to Israel's phased withdrawal from the Sinai and Egypt's shift from reliance on Soviet weaponry. The authorizations contained in this section do not, however, constitute Congressional approval of the sale of any particular weapons system to either country. These sales will be reviewed under the normal procedures set forth in section 36(b) of the Arms Export Control Act.

(b) In addition to amounts authorized to be appropriated for the fiscal year 1979 by section 31(a) of the Arms Export Control Act, there is authorized to be appropriated to the President to carry out that Act $370,000,000 for the fiscal year 1979.[4]

(c) Funds made available pursuant to subsection (b) of this section may be used only for guaranties for Egypt and Israel pursuant to section 24(a) of the Arms Export Control Act. The principal amount of loans guaranteed with such funds may not exceed $3,700,000,000 of which $2,200,000,000 shall be available only for Israel and $1,500,000,000 shall be available only for Egypt. The principal amount of such guaranteed loans shall be in addition to the aggregate ceiling authorized for the fiscal year 1979 by section 31(b) of the Arms Export Control Act.

(d) Loans guaranteed with funds made available pursuant to subsection (b) of this section shall be on terms calling for repayment within a period of not less than thirty years, including an initial grace period of ten years on repayment of principal.

(e)(1) The Congress finds that the Governments of Israel and Egypt each have an enormous external debt burden which may be made more difficult by virtue of the financing authorized by this section. The Congress further finds that, as a consequence of the impact of the debt burdens incurred by Israel and Egypt under such financing, it may become necessary in future years to modify the terms of the loans guaranteed with funds made available pursuant to this section.

(2) [5] * * * [Repealed—1981]

SUPPLEMENTAL AUTHORIZATION OF ECONOMIC SUPPORT FOR EGYPT

Sec. 5. [6] There is authorized to be appropriated to the President to carry out chapter 4 of part II of the Foreign Assistance Act of

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[2] Sec. 3 amended the Foreign Assistance Act of 1961 by adding a new ch. 7 ("Air Base Construction in Israel") to part II of that Act.

[3] 22 U.S.C. 3402.

[4] Supplemental Appropriations Act, 1979 (Public Law 96-38, 93 Stat. 103) stated: "For an additional amount for 'Foreign military credit sales' for Egypt and Israel, $370,000,000."

[5] Paragraph (2), which had required an annual report by the President concerning the economic conditions prevailing in Israel and Egypt which may affect their respective ability to meet their obligations to make payments under the financing authorized in this section, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). A similar report was required by sec. 723 of Public Law 97-113 (see page 414).

[6] 22 U.S.C. 3403.

1961, $300,000,000 for the fiscal year 1979 for Egypt, in addition to amounts otherwise authorized to be appropriated for such chapter for the fiscal year 1979.[7] The amounts appropriated pursuant to this section may be made available until expended.

TRANSFER OF FACILITIES OF THE SINAI FIELD MISSION TO EGYPT

Sec. 6. [8] The President is authorized to transfer to Egypt, on such terms and conditions as he may determine, such of the facilities and related property of the United States Sinai Field Mission as he may determine, upon the termination of the activities of the Sinai Field Mission in accordance with the terms of the peace treaty between Egypt and Israel.

CONTRIBUTIONS BY OTHER COUNTRIES TO SUPPORT PEACE IN THE MIDDLE EAST

Sec. 7. [9] (a) It is the sense of the Congress that other countries should give favorable consideration to providing support for the implementation of the peace treaty between Egypt and Israel. Therefore, the Congress requests that the President consult with other countries in order to (1) promote and develop an agreement for the establishment of a peace development fund whose purpose would be to underwrite the costs of implementing a Middle East peace, and (2) encourage investments in Israel and Egypt and other countries in the region should they join in Middle East peace agreements.

(b) [10] * * * [Repealed—1981]

PLANNING FOR TRILATERAL SCIENTIFIC AND TECHNOLOGICAL COOPERATION BY EGYPT, ISRAEL, AND THE UNITED STATES

Sec. 8. [11] (a) It is the sense of the Congress that, in order to continue to build the structure of peace in the Middle East, the United States should be prepared to participate, at an appropriate time, in trilateral cooperative projects of a scientific and technological nature involving Egypt, Israel, and the United States.

(b) Therefore, the President shall develop a plan to guide the participation of both United States Government agencies and private institutions in such projects. This plan shall identify—

(1) potential projects in a variety of areas appropriate for scientific and technological cooperation by the three countries, including agriculture, health, energy, the environment, education, and water resources;

(2) the resources which are available or which would be needed to implement such projects; and

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[7] Supplemental Appropriations Act, 1979 (Public Law 96-38, 93 Stat. 102) stated: "For an additional amount for the 'Economic support fund' for Egypt, $300,000,000, to remain available until expended."

[8] 22 U.S.C. 3404.

[9] 22 U.S.C. 3405.

[10] Subsec. (b), which had required a report from the President on U.S. efforts to increase economic aid from other donors to Egypt, Israel, and others in the region and the impact on Egypt's economy of Arab sanctions against Egypt, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on January 6, 1981.

[11] 22 U.S.C. 3406.

(3) the means by which such projects would be implemented.

(c) [12] * * * [Repealed—1981]

REPORT ON COSTS TO THE UNITED STATES OF IMPLEMENTING THE PEACE TREATY BETWEEN EGYPT AND ISRAEL

Sec. 9. [13] * * * [Repealed—1981]

NON-PROLIFERATION OF NUCLEAR WEAPONS

Sec. 10. [14] In accordance with the Nuclear Non-Proliferation Act of 1978, the Congress strongly encourages all countries in the Middle East which are not parties to the Treaty on the Non-Proliferation of Nuclear Weapons to become parties to that Treaty.

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[12] Subsec. (c), which had required the President to transmit the plan developed pursuant to subsec. (b) to the Congress, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). This plan was submitted to Congress on September 29, 1980.

[13] Sec. 9, which has required a report from the President on the costs to the U.S. Government associated with the implementation of the Egyptian-Israeli peace treaty, was repealed by sec. 734(a)(4) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on October 25, 1979.

[14] 22 U.S.C. 3408.

r. International Development and Food Assistance Act of 1978

Partial text of Public Law 95–424 [H.R. 12222], 92 Stat. 937, approved October 6, 1978, as amended by Public Law 96–53 [International Development Cooperation Act of 1979, H.R. 3324], 93 Stat. 359 at 378, approved August 14, 1979; Public Law 96–67 [S. 1019], 93 Stat. 415, approved September 21, 1979; and by Public Law 97–113 [S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

NOTE.—Except for the provisions noted below, the International Development and Food Assistance Act of 1978 consists of amendments to the FA Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

AN ACT To amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development and Food Assistance Act of 1978".

TITLE I—DEVELOPMENT ASSISTANCE

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INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 117.—(a) * * *

(b)(1) * * *

(2) [1] * * * [Repealed—1981]

(c) * * *

(d) * * *

(e) [2] In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President not to exceed $1,000,000 for contributions to the World Assembly on Aging to be convened under the auspices of the United Nations, except that the amount so contributed may not exceed 25 percent of the expenditures of such Assembly. Amounts appropriated under this subsection are authorized to remain available until expended.

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[1] Paragraph (2), which had required a report from the Secretary of State on the progress made by the UNRWA to improve the ration distribution system for Palestine refugees, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1560). The Secretary of State submitted this report to Congress on February 5, 1979.

[2] 22 U.S.C. 2222 note. See also sec. 302(a)(1) of the FA Act of 1961.

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LOCUST PLAGUES CONTROL IN AFRICA

Sec. 120. [3] In order to assist in attempts to control locust plagues in Africa, especially in the Horn of Africa, there is authorized to be appropriated to the President, in addition to amounts otherwise authorized for disaster relief purposes, $2,000,000, which amount is authorized to remain available until expended.

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AFRICAN DEVELOPMENT FOUNDATION

Sec. 122. [4] (a) The Congress declares that the United States should place higher priority on the formulation and implementation of policies and programs to enable the people of African nations to develop their potential, fulfill their aspirations, and enjoy better, more productive lives. In furtherance of these objectives, the Congress finds that additional support is needed for community-based self-help activities in Africa and that an African Development Foundation, organized to further the purposes set forth in section 123 of the Foreign Assistance Act of 1961, can complement current United States development programs in Africa.

(b) [5] * * * [Repealed—1981]

TITLE II—FOOD FOR PEACE

EFFECTIVENESS OF FOOD ASSISTANCE IN MEETING BASIC FOOD NEEDS

Sec. 201. [6] * * * [Repealed—1981]

TITLE III—COORDINATION AND ADMINISTRATION OF THE DEVELOPMENT-RELATED PROGRAMS AND POLICIES OF THE UNITED STATES

DECLARATION OF OBJECTIVES

Sec. 301. [7] The Congress declares that the United States Government should place higher priority, in the formulation and implementation of governmental policies, on efforts to help meet the legitimate needs of poor countries for improving the quality of the lives of their populations. The Congress also declares that greater effectiveness and efficiency of United States assistance to such countries can be achieved through improved coordination and administrative consolidation.

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[3] 22 U.S.C. 2292d.

[4] 22 U.S.C. 2151u note.

[5] Subsec. (b), which had required a report from the President on proposals for an African Development Foundation, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on February 1, 1979.

[6] Sec. 201, which had required a report from the President on the effectiveness of food assistance under Public Law 480 in meeting basic human needs, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on February 23, 1979.

[7] 22 U.S.C. 2151 note.

IMPLEMENTATION OF OBJECTIVES

Sec. 302. [7] In furtherance of the objectives set forth in section 301 the Congress directs the President to institute a strengthened system of coordination of all United States economic policies which impact on the developing countries of the world, including but not limited to policies concerning international trade, commodity agreements, investment, debt, international financial institutions, international and multilateral development agencies and programs, and concessional and grant food assistance, in addition to policies concerning United States bilateral economic development assistance.

REPORT

Sec. 303. [8] * * * [Repealed—1981]

TITLE IV—UNIFIED PERSONNEL SYSTEM

ESTABLISHMENT OF A UNIFIED PERSONNEL SYSTEM

Sec. 401. [9] (a) Not later than May 1, 1979,[10] the President shall submit to the Congress, and publish in the Federal Register, regulations establishing a unified personnel system for all employees of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961. In preparing such regulations, the President shall keep the appropriate committees of the Congress fully and currently informed, and shall consult with them on a regular basis, concerning the nature of the unified personnel system to be established.

(b) The regulations submitted to the Congress pursuant to subsection (a)—

(1) may not become effective until after the end of the 90-day period beginning on the date of such submission in order to provide the appropriate committees of the Congress an opportunity to review them; and

(2) shall not become effective then if, during such 90-day period, either House of Congress adopts a resolution stating in substance that it disapproves the personnel system proposed to be established by the regulations.

(c) Regulations which take effect pursuant to this section shall have the force and effect of law and shall apply with respect to the personnel of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, notwithstanding any inconsistent provision of law unless that provision of law specifically states that it supersedes regulations issued under this section.

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[8] Sec. 303, which had required a report from the President on steps he has taken to implement this title, was repealed by sec. 734(a)(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on March 8, 1979.

[9] 22 U.S.C. 2385a.

[10] The due date for this report was extended from March 15, 1979, by sec. 503 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 378), effective March 15, 1979.

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TITLE VI—MISCELLANEOUS PROVISIONS

REDUCTION OF AUTHORIZATION

Sec. 601. [11] The total funds authorized to be appropriated in this Act (excluding funds authorized to be appropriated to carry out section 214 of the Foreign Assistance Act of 1961) shall be reduced by 5 percent.

PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, AND CUBA [12]

Sec. 602.[11] Notwithstanding any other provision of law or of this Act, funds authorized to be appropriated in this Act shall not be used for any form of aid, either by monetary payment or by the sale or transfer of any goods of any nature, to the Socialist Republic of Vietnam, Cambodia, or Cuba.

REPORTS TO CONGRESS ON DEBT RELIEF AGREEMENTS

Sec. 603. [13] (a)(1) [14] * * * [Repealed—1981]

(2) The Secretary of State shall transmit to such committees a copy of the text of any agreement with any foreign government which would result in any such debt relief no less than thirty days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief. The requirements of this paragraph shall not apply with respect to an agreement if a statutory requirement exists that the amount of the debt relief provided by the agreement may not exceed the amount approved for such purposes in advance in an appropriation Act.

(b) Section 4 of the Foreign Disaster Assistance Act of 1974 is repealed.

MISCELLANEOUS REPEALS

Sec. 604. Sections 302(d), 302(e), 302(f), 302(g), 302(h), 304, 494A, 495A, 618, 619, 637(a), 649, 651, 655, 656, 658, and 665, and chapters 6 and 7 of part I, of the Foreign Assistance Act of 1961 are repealed.

EFFECTIVE DATE

Sec. 605. The amendments made by this Act shall take effect on October 1, 1978.

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[11] 22 U.S.C. 2151 note.

[12] Uganda was struck from the section heading and from the list of countries in sec. 602 by Public Law 96-67 (93 Stat. 415).

[13] 22 U.S.C. 2395a.

[14] Paragraph (1), which had required that the Secretary of State keep several congressional committees informed of negotiations with foreign governments with respect to any cancellation, renegotiations, rescheduling, compromise, or other form of debt relief for any debt owed to the United States, was repealed by sec. 734(a)(5) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560.).

s. International Security Assistance Act of 1978

Partial text of Public Law 95–384 [S. 3075], 92 Stat. 730, approved September 26, 1978, as amended by Public Law 97–113 [S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

> NOTE.—Except for the provisions noted below, the International Security Assistance Act of 1978 consists of amendments to the Arms Export Control Act, the FA Act of 1961, the FA Act of 1974, the International Security Assistance Act of 1977, the International Security Assistance and Arms Export Control Act of 1976, the Mutual Security Act of 1954, the Foreign Military Sales Act Amendments, 1971, the Export Administration Act of 1969, and the Emergency Security Assistance Act of 1973.

AN ACT To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Security Assistance Act of 1978".

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UNITED STATES POLICY REGARDING THE EASTERN MEDITERRANEAN

Sec. 13. [1] (a) Section 620(x) of the Foreign Assistance Act of 1961 shall be of no further force and effect upon the President's determination and certification to the Congress [2] that the resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of the North Atlantic Treaty Organization and that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem, the early peaceable return of refugees to their homes and properties, and continued removal of Turkish military troops from Cyprus in the context of a solution to the Cyprus problem, and the early serious resumption of inter-communal talks aimed at a just, negotiated settlement.

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[1] 22 U.S.C. 2370 note.

[2] Such determination and certification, dated September 26, 1978, was submitted to the Congress.

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ARMS TRANSFER POLICY

Sec. 15. (a) * * *

(b)[3] * * * [Repealed—1981]

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SPECIAL SECURITY ASSISTANCE PROGRAM FOR THE MODERNIZATION OF THE ARMED FORCES OF THE REPUBLIC OF KOREA

Sec. 23.[4] (a)(1) The President is authorized until December 31, 1982—

(A) to transfer, without reimbursement, to the Republic of Korea, only in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea; and

(B) to furnish to the Republic of Korea, without reimbursement, defense services (including technical and operational training) in Korea directly related to the United States Government-owned defense articles transferred to the Republic of Korea under this subsection.

(2) Any transfer under the authority of this section shall be made in accordance with all the terms and conditions of the Foreign Assistance Act of 1961 applicable to the furnishing of defense articles and defense services under chapter 2 of part II of that Act, except that no funds heretofore or hereafter appropriated under that Act shall be available to reimburse any agency of the United States Government for any such transfer or related services.

(b) In order that transfers of defense articles under subsection (a) will not cause significant adverse impact on the readiness of the Armed Forces of the United States, the President is authorized, in lieu of such transfers, to transfer additional defense articles from the stocks of the Department of Defense, wherever located, to the Republic of Korea to compensate for the military capability of defense articles withdrawn from Korea in any case where he determines that—

(1) the transfer of specific defense articles located in Korea would have a significant adverse impact on the readiness of the United States Armed Forces;

(2) the defense capability provided by those defense articles is needed by the Armed Forces of the Republic of Korea in order to maintain the military balance on the Korean peninsula; and

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[3] Subsec. (b), which had required a report from the President concerning multilateral discussions with other arms suppliers on the issue of restraining the flow of conventional arms to developing countries, was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on December 28, 1979.

[4] 22 U.S.C. 2428b.

(3) a comparable defense capability could be provided by less advance defense articles in the stocks of the Department of Defense which could be transferred without significant adverse impact on the readiness of the United States Armed Forces.

The President shall report to the Congress each determination made under this subsection prior to the transfer of the defense articles described in such determination.

(c) The President shall transmit to the Congress, together with the presentation materials for security assistance programs proposed for each fiscal year through and including the fiscal year 1983, a report describing the types, quantities, and value of defense articles furnished or intended to be furnished to the Republic of Korea under this section.

(d)[5] * * * [Repealed—1981]

(e)(1) It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress.

(2)[6] * * * [Repealed—1981]

UNITED STATES RELATIONS WITH THE SOVIET UNION

Sec. 24.[7] (a) The Congress finds and declares that a sound and stable relationship with the Soviet Union will help achieve the objectives of the Foreign Assistance Act of 1961 and the Arms Export Control Act, strengthen the security of the United States, and improve the prospects for world peace.

(b) Therefore, it is the sense of the Congress that the President, in cooperation with the Congress and knowledgeable members of the public, should make a full review of United States policy toward the Soviet Union. This review should cover, but not be limited to—

(1) an overall reevaluation of the objectives and priorities of the United States in its relations with the Soviet Union;

(2) the evolution of and sources of all bargaining power of the United States with respect to the Soviet Union and how that bargaining power might be enhanced;

(3) what linkages do exist and what linkages should or should not exist between various elements of United States-Soviet relations such as arms control negotiations, human rights issues, and economic and cultural exchanges;

(4) the policies of the United States toward human rights conditions in the Soviet Union and how improved Soviet respect for human rights might be more effectively achieved;

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[5] Subsec. (d), which had required a report from the President 120 days prior to each phase of troop withdrawal from Korea regarding the viability of such withdrawal, was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[6] Paragraph (2), which had required a report from the President prior to any future withdrawals of U.S. ground forces from Korea concerning a number of issues which might be affected by the withdrawal, was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[7] 22 U.S.C. 2151 note.

(5) the current status of strategic arms limitations talks and whether such talks should be continued in their present framework or terminated and renewed in some other forum;

(6) the current status of other arms control negotiations between the United States and the Soviet Union;

(7) the challenges posed by Soviet and Cuban involvement in developing countries and a study of appropriate policy responses and instruments to meet those challenges more effectively;

(8) the impact of our relations with the People's Republic of China on our relations with the Soviet Union;

(9) the impact of strategic parity on relations between the United States and the Soviet Union and on the ability of the United States to meet its obligation under the North Atlantic Treaty;

(10) United States economic, technological, scientific, and cultural relations with the Soviet Union and whether those relations are desirable and should be continued, expanded, restricted, or linked to other aspects of relations between the United States and the Soviet Union;

(11) the evolution of Soviet domestic politics and the relationship between Soviet domestic politics and its foreign policy behavior, especially towards the United States; and

(12) what improvements should be made in the institutions and procedures of United States foreign policy in order to ensure a coherent and effective policy towards the Soviet Union.

(c) [8] * * * [Repealed—1981]

REPORT ON REVIEW OF ARMS SALES CONTROLS ON NON-LETHAL ITEMS

Sec. 25. [9] * * * [Repealed—1981]

UNITED STATES-REPUBLIC OF CHINA MUTUAL DEFENSE TREATY

Sec. 26. [7] (a) The Congress finds that—

(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;

(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;

(3) the Republic of China has during that twenty-four-year period faithfully and continually carried out its duties and obligations under that treaty; and

(4) it is the responsibility of the Senate to give its advice and consent to treaties entered into by the United States.

(b) It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954.[10]

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[8] Subsec. (c), which had required a report from the President concerning his review of U.S. policy toward the Soviet Union as outlined in subsec. (b), was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report on January 4, 1979.

[9] Sec. 25, which had required a report from the President on a review of arms sales control on non-lethal items, was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on January 26, 1979.

RHODESIA EMBARGO

Sec. 27. [11] * * * [Repealed—1981]

NEGOTIATIONS BETWEEN ISRAEL AND EGYPT

Sec. 28. [12] (a) The Congress finds that—

(1) a lasting settlement of the Arab-Israel conflict is vital to United States national interests as well as to the interests of the countries of the region;

(2) support for a strong and secure Israel and the maintenance for this purpose of Israel's effective defense capabilities as essential to peace remains a fundamental tenet of United States foreign policy;

(3) direct, face-to-face negotiations between Israel and Egypt without preconditions is a historic opening for peace, and the support of such negotiations by other moderate Arab countries, can best promote a peace settlement based on mutual concessions and accommodations;

(4) the establishment of secure, recognized, and defensible borders between Israel and its neighbors will discourage hostilities; and

(5) full, normalized relations between Israel and its Arab neighbors, including trade, travel, tourism, communications, and diplomatic relations are vital for peace.

(b) It is the sense of the Congress that the Government of the United States should continue to promote direct negotiations between Israel and Egypt and to encourage other Arab countries to enter into negotiations leading to peace treaties with Israel.

(c) It is further the sense of the Congress that the United States should be responsive to Israel's economic needs and defense requirements, including the provision of additional advanced aircraft, in order to maintain Israel's defense capability which is essential to peace.

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[10] Pursuant to article X of the treaty, the State Department on Dec. 23, 1978, delivered notice, effective January 1, 1979, that the United States was terminating the treaty. Under article X, the treaty remained in force until January 1, 1980.

[11] Sec. 27 was repealed by sec. 734(a)(12) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). It formerly read as follows:

"Sec. 27. In furtherance of the foreign policy interests of the United States, the Government of the United States shall not enforce sanctions against Rhodesia after December 31, 1978, provided that the President determines that—

"(1) the Government of Rhodesia has demonstrated its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues; and

"(2) a government has been installed, chosen by free elections in which all political and population groups have been allowed to participate freely, with observation by impartial, internationally-recognized observers."

[12] 22 U.S.C. 234a note.

SAVINGS PROVISION

Sec. 30. [13] Enactment of this Act shall not affect the authorizations of appropriations and limitations of authority applicable to the fiscal year 1978 which are contained in provisions of law amended by this Act (other than sections 31 (a), (b), and (d) of the Arms Export Control Act).

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[13] 22 U.S.C. 1754 note.

t. International Development and Food Assistance Act of 1977

Partial text of Public Law 95-88 [H.R. 6714], 91 Stat. 533, approved August 3, 1977, as amended by Public Law 96-53 [International Development Cooperation Act of 1979, H.R. 3324], 93 Stat. 359 at 366, approved August 14, 1979; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; and by Public Law 97-113 [S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

> NOTE.—Except for the provisions noted below, the International Development and Food Assistance Act of 1977 consists of amendments to the FA Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480). For text, see pages 15 and 939.

AN ACT To amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal year 1978, to amend the Agricultural Trade Development and Assistance Act of 1954 to make certain changes in the authorities of that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development and Food Assistance Act of 1977."

TITLE I—INTERNATIONAL DEVELOPMENT ASSISTANCE

* * * * * * *

INSPECTOR GENERAL, FOREIGN ASSISTANCE

Sec. 124. (a)(1) * * *

(2) [1] * * * [Repealed—1981]

(b) Section 5315 of title 5, United States Code, is amended by repealing paragraphs (52) and (53).

(c) The amendments made by this section shall take effect on July 1, 1978.

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FUTURE UNITED STATES DEVELOPMENT ASSISTANCE

Sec. 131. [2] It is the sense of the Congress that the United States should increase substantially its assistance for self-help development among the world's poorest people. Such assistance should be provided in accordance with the general policies and principles of chapter 1 of part I of the Foreign Assistance Act of 1961, with particular emphasis on encouraging and supporting more equitable patterns of economic growth, especially in the poorest countries, and should be coordinated with similar expanded efforts by international organizations, donor nations, and the recipient countries themselves.

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[1] Paragraph (2), which concerned the duties and responsibilities of the Inspector General, Foreign Service, was repealed by sec. 2205(11) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2162).

[2] 22 U.S.C. 2151 note.

LIMITATION ON USE OF FUNDS; MISSING IN ACTION IN VIETNAM

Sec. 132. [3] * * * [Repealed—1981]

(b) The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

PLAN FOR INCREASED MINORITY BUSINESS PARTICIPATION IN FOREIGN ASSISTANCE ACTIVITIES

Sec. 133. [2] (a) The Administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall prepare and transmit to the Congress, not later than 30 days after the date of enactment of this Act, a detailed plan for the establishment of a section on minority business within such agency.

(b) Such plan shall include, but shall not be limited to—

(1) a description of where the section on minority business will be located in such agency's organizational structure and what relevant lines of authority will be established;

(2) a listing of the specific responsibilities that will be assigned to the section on minority business to enable it to increase, in a rational and effective manner, participation of minority business enterprises in activities funded by such agency;

(3) a design for a time-phase system for bringing about expanded minority business enterprise participation, including specific recommendations for percentage allocations of contracts by such agency to minority business enterprises;

(4) a proposed reporting system that will permit objective measuring of the degree of participation of minority business enterprises in comparison to the total activities funded by such agency;

(5) a detailed projection of the administrative budgetary impact of the establishment of the section on minority business; and

(6) a detailed set of objective criteria upon which determinations will be made as to the qualifications of minority business enterprises to receive contracts funded by such agency.

(c) [4] (1) Upon the enactment of the International Development Cooperation Act of 1979, the section on minority business established pursuant to subsection (a) shall be redesignated as the Minority Resource Center (hereafter in this section referred to as the "Center") which shall be responsible for increasing the participation of economically and socially disadvantaged business enterprises in contract, procurement, grant, and research and development activities funded by the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 (hereafter in this section referred to as the "agency").

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[3] Subsec. (a), which had prohibited assistance to or reparations for Cambodia, Vietnam, Laos, or Cuba for fiscal year 1978, was repealed by sec. 734(a)(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[4] Subsec. (c) was added by sec. 123 of the International Development Cooperation Act of 1979 (Public Law 95-53, 93 Stat. 366). This amendment made by Public Law 96-53 became effective August 16, 1979.

(2) The Center shall—

(A) establish, maintain, and disseminate information to, and otherwise serve as an information clearinghouse for, economically and socially disadvantaged business enterprises regarding business opportunities in development assistance programs funded by the agency;

(B) design and conduct programs to encourage, promote, and assist economically and socially disadvantaged business enterprises to secure direct contracts, host country contracts, operation expatriate contracts, indefinite quantity contracts, subcontracts, projects, grants, and research and development contracts in order for such enterprises to participate in such development assistance programs;

(C) conduct market research, planning, economic and business analyses, and feasibility studies to identify business opportunities in such development assistance programs;

(D) develop support mechanisms which will enable socially and economically disadvantaged businesses to take advantage of business opportunities in such development assistance programs; and

(E) enter into such contracts (to such extent or in such amounts as are provided in appropriation Acts), cooperative agreements, or other transactions as may be necessary in the conduct of its functions under this section.

(3) The Administrator of the agency and the Secretary of State shall provide the Center with such relevant information, including procurement schedules, bids, and specifications with respect to development assistance programs funded by the agency, as may be requested by the Center in connection with the performance of its functions under this section.

(4) There shall be a Director of the Center who shall be the chief executive officer of the Center. The Director shall be appointed by the Administrator of the agency.

(5)(A) For the purposes of this section, the term "economically and socially disadvantaged enterprise" means a business—

(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) whose management and daily business operations are controlled by one or more such individuals.

(B) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(C) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Administrator of the agency shall consider, but not be limited to, the assets and net worth of the socially disadvantaged individual.

(6) [5] * * * [Repealed—1981]

(7) Of the funds available to the agency for operating expenses, up to $950,000 for fiscal year 1980 may be allocated to the Center to carry out its functions under this section.

(8) If the Administrator of the agency determines that such a consolidation would significantly further the purposes of this section and would eliminate unnecessary duplication of activity, the Administrator may consolidate the Center with the Office of Small and Disadvantaged Business Utilization established in the agency by section 15(k) of the Small Business Act. Any such consolidation shall ensure that all the functions specified in paragraph (2) of this subsection continue to be carried out. Before implementing any such consolidation, the Administrator shall submit to the Congress a detailed report setting forth the reasons for the proposed consolidation.

TITLE II—FOOD FOR PEACE

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STUDY OF PAYMENTS OF OCEAN FREIGHT DIFFERENTIALS

Sec. 214. [6] * * * [Repealed—1981]

EFFECTIVE DATE

Sec. 215. The provisions of this title shall become effective October 1, 1977.

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[5] Paragraph (6), which had required an annual report concerning the activities of the Minority Resource Center, was repealed by sec. 734(a)(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). This same information is now required by sec. 634(a)(11) of the Foreign Assistance Act of 1961.

[6] Sec. 214, which had required a report from the President on the payments of ocean freight differentials, was repealed by sec. 734(a)(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

u. International Security Assistance Act of 1977

Partial text of Public Law 95–92 [H.R. 6684], 91 Stat. 614, approved August 4, 1977, as amended by Public Law 95–384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 747, approved September 26, 1978; and by Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

> NOTE.—Except for the provisions noted below, the International Security Assistance Act of 1977 consists of amendments to the Arms Export Control Act and the FA Act of 1961.

AN ACT To amend the Foreign Assistance Act of 1961 to authorize international security assistance programs for fiscal year 1978, to amend the Arms Export Control Act to make certain changes in the authorities of that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. [1] This Act may be cited as the "International Security Assistance Act of 1977".

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SECURITY SUPPORTING ASSISTANCE PROGRAM FOR EGYPT

Sec. 9. [2] It is the sense of the Congress that the security supporting assistance program for Egypt plays an important role in the Middle East peace effort and that the Executive branch should concentrate its efforts in order to make the program a success.

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PROHIBITION ON ASSISTANCE FOR NUCLEAR POWERPLANTS

Sec. 14. [3] * * *

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[1] 22 U.S.C. 2151 note.

[2] 22 U.S.C. 2346 note. Sec. 29(c)(2) of the International Security Assistance Act of 1978 (92 Stat. 747) repealed subsecs. (b) through (e) of sec. 9. These subsections concerned the creation and activities of a Special Interagency Task Force to review the U.S. security supporting assistance program for Egypt.

[3] Sec. 14, which had prohibited the use of funds made available under the Foreign Assistance Act of 1961 during fiscal year 1978 to finance the construction of, the operation or maintenance

Continued

FISCAL YEAR 1977 AUTHORIZATIONS AND LIMITATIONS

Sec. 21.[4] Authorizations of appropriations and limitations of authority applicable to the fiscal year 1977 contained in provisions of law amended by this Act shall not be affected by enactment of this Act.

ASSISTANCE AND SALES TO GREECE AND TURKEY

Sec. 22.[5] * * * [Repealed—1981]

ARMS SALES AND UNITED STATES DEFENSE READINESS

Sec. 23.[6] * * * [Repealed—1978]

STUDY OF TECHNOLOGY TRANSFERS

Sec. 24.[7] (a) The President shall conduct a comprehensive study of the policies and practices of the United States Government with respect to the national security and military implications of international transfers of technology in order to determine whether such policies and practices should be changed. Such study shall examine—

(1) the nature of technology transfer;

(2) the effect of technology transfers on United States technological superiority;

(3) the rationale for transfers of technology from the United States to foreign countries;

(4) the benefits and risks of such transfers;

(5) trends in technology transfers by the United States and other countries;

(6) the need for controls on transfers of technology, including controls on the use of transferred technology, the effectiveness of existing end-use controls, and possible unilateral sanctions if end-use restrictions are violated;

(7) the effectiveness of existing organizational arrangements in the Executive branch in regulating technology transfers from the United States;

(8) the adequacy of existing legislation and regulations with respect to transfers of technology from the United States; and

(9) the possibilities for international agreements with respect to transfers of technology.

(b) In conducting the study required by subsection (a), the President shall utilize the resources and expertise of the Arms Control and Disarmament Agency, the Department of State, the Department of Defense, the Department of Commerce, the National Science Foundation, the Office of Science and Technology Policy, and

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of, or the supply of fuel for, any nuclear powerplant under an agreement for cooperation between the U.S. and any other country, was repealed by sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[4] 22 U.S.C. 2151 note.

[5] Sec. 22, which set out certain conditions for assistance and sales to Greece and Turkey during fiscal year 1978, was repealed by sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[6] Sec. 23, which had required a report to Congress on the impact of U.S. foreign arms sales and transfers on U.S. defense readiness and national security, was repealed by sec. 29(c)(2) of the International Security Assistance Act of 1978 (92 Stat. 747).

[7] 22 U.S.C. 2751 note.

such other entities within the Executive branch as he deems necessary.

(c) [8] * * * [Repealed—1981]

POLICY ON ZAIRE

Sec. 25. [9] * * * [Repealed—1981]

POLICY STATEMENT ON UNITED STATES ARMS SALES TO ISRAEL

Sec. 26. [7] In accordance with the historic special relationship between the United States and Israel and previous agreements and continuing understandings, the Congress joins with the President in reaffirming that a policy of restraint in United States arms transfers, including arms sales ceilings, shall not impair Israel's deterrent strength or undermine the military balance in the Middle East.

REVIEW OF ARMS SALES CONTROLS ON NON-LETHAL ITEMS

Sec. 27. [7] The President shall undertake a review of all regulations relating to arms control for the purpose of defining and categorizing lethal and non-lethal products and establishing the appropriate level of control for each category.

REPUBLIC OF KOREA

Sec. 28. (a)(1) It is the sense of the Congress that the President should take all effective measures to assure that the Republic of Korea is cooperating fully with the investigation (including any resulting prosecutions) being conducted by the Department of Justice with respect to allegations of improper activity in the United States by agents of the Republic of Korea.

(2) [10] * * * [Repealed—1981]

(b) It is the further sense of the Congress that the President should take all effective measures to assure that the Republic of Korea is cooperating fully with the investigations being conducted by committees of Congress.

PIASTER CONVERSION

Sec. 29. [11] No provision of law shall be construed to prevent payment of claims of former and present Vietnamese employees of the Agency for International Development, who presently reside in the United States, for the conversion of Vietnamese piasters to dollars because such conversion cannot take place in the territory of the former Republic of Vietnam or because the official with whom such piasters were deposited was not a United States disbursing officer.

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[8] Subsec. (c), which had required a report from the President regarding the findings made and conclusions reached as a result of the study conducted pursuant to subsec. (a), was repealed by sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on August 21, 1978.

[9] Sec. 25, which had prohibited U.S. aid for Zaire during fiscal year 1978 supporting any military or paramilitary operations in Zaire (unless the President determined that such assistance would be in the U.S. national security interests), was repealed by sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[10] Paragraph (2), which required a report every 90 days from the President regarding the extent to which Korea was cooperating with the investigation being conducted by the Department of Justice, was repealed by sec. 734(a)(13) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[11] 22 U.S.C. 2431 note.

v. International Security Assistance and Arms Export Control Act of 1976

Partial text of Public Law 94-329 [H.R. 13680], 90 Stat. 729, approved June 30, 1976, as amended by Public Law 95-384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 735, 737, and 747, approved September 26, 1978; Public Law 96-533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3141, approved December 16, 1980; and by Public Law 97-113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1554 and 1560, approved December 29, 1981

> NOTE.—Except for the provisions noted below, the International Security Assistance and Arms Export Control Act of 1976 consists of amendments to the FA Act of 1961, FA Act of 1973, the Foreign Military Sales Act, the Foreign Military Sales Act Amendments, 1971, and the Mutual Security Act of 1954.

AN ACT To amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Security Assistance and Arms Export Control Act of 1976".

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INTERNATIONAL MILITARY EDUCATION AND TRAINING

Sec. 106. (a) * * *

(b) * * *

(c) [1] Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law amended or repealed by this section shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

(d) [2] Funds made available pursuant to other provisions of law for foreign military educational and training activities shall remain available for obligation and expenditure for their original purposes in accordance with the provisions of law originally applicable to those purposes or in accordance with the provisions of law currently applicable to those purposes.

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[1] 22 U.S.C. 2321a note.

[2] 22 U.S.C. 2347 note.

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ARMS SALES POLICY

Sec. 201. (a) * * *

(b) Any reference to the Foreign Military Sales Act shall be deemed to be a reference to the Arms Export Control Act.

Sec. 202. (a) * * *

(b) [3] * * * [Repealed—1978]

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CONTROL OF LICENSES WITH RESPECT TO ARMS EXPORTS AND IMPORTS

Sec. 212. (a) * * *

(b)(1) Section 414 of the Mutual Security Act of 1954 is repealed. Any reference to such section shall be deemed to be a reference to section 38 of the Arms Export Control Act [4] and any reference to licenses issued under section 38 of the Arms Export Control Act [4] shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954.

(2) All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under section 414 of the Mutual Security Act of 1954 shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

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REPORT ON SALES OF EXCESS DEFENSE ARTICLES

Sec. 217.[5] * * * [Repealed—1978]

STUDY OF THE EFFECTS OF ARMS EXPORT CONTROL PROVISIONS

Sec. 218.[5] * * * [Repealed—1978]

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LIMITATION ON CERTAIN ASSISTANCE TO AND ACTIVITIES IN ANGOLA

Sec. 404.[6] * * * [Repealed—1980]

SOVIET INTERVENTION IN ANGOLA

Sec. 405. The Congress views the large-scale and continuing Soviet intervention in Angola, including active sponsorship and support of Cuban armed forces in Angola, as being completely inconsistent with any reasonably defined policy of détente, as well as with Articles 1 and 2 of the United Nations Charter, the principle of noninterference in the affairs of other countries agreed to at Helsinki in 1975, and with the spirit of recent bilateral agreements between the United States and the Union of Soviet Socialist Republics. Such intervention should be taken explicitly into account in United States foreign policy planning and negotiations.

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[3] Sec. 202. (b), which had required a study by the President regarding U.S. arms sales policies and practices, was repealed by sec. 29(c)(1)(A) of the International Security Assistance Act of 1978 (Public Law 95–384, 92 Stat. 747).

[4] For text, see page 298.

[5] Secs. 217 and 218 were repealed by sec. 29(c)(1) of the International Security Assistance Act of 1978 (Public Law 95–384, 92 Stat. 747).

[6] Sec. 404 was repealed by sec. 118(e) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3141).

LIMITATIONS ON ECONOMIC ASSISTANCE, MILITARY ASSISTANCE, SALES, AND SALES CREDITS FOR CHILE

Sec. 406.[7] * * * [Repealed—1981]

CONTROL OF MILITARY FORCES IN THE INDIAN OCEAN

Sec. 407.[8] It is the sense of Congress that the President should undertake to enter into negotiations with the Soviet Union intended to achieve an agreement limiting the deployment of naval, air, and land forces of the Soviet Union and the United States in the Indian Ocean and littoral countries. Such negotiations should be convened as soon as possible and should consider, among other things, limitations with respect to—

(1) the establishment or use of facilities for naval, air, or land forces in the Indian Ocean and littoral countries;

(2) the number of naval vessels which may be deployed in the Indian Ocean, or the number of "shipdays" allowed therein; and

(3) the type and number of military forces and facilities allowed therein.

(b)[9] * * * [Repealed—1978]

UNITED STATES CITIZENS IMPRISONED IN MEXICO

Sec. 408.[10] (a) The Congress, while sharing the concern of the President over the urgent need for international cooperation to restrict traffic in dangerous drugs, is convinced that such efforts must be consistent with respect for fundamental human rights. The Congress, therefore, calls upon the President to take steps to insure that United States efforts to secure stringent international law enforcement measures are combined with efforts to secure fair and humane treatment for citizens of all countries.

(b) The Congress requests that the President communicate directly to the President and Government of the Republic of Mexico, a nation with which we have friendly and cooperative relations, the continuing desire of the United States for such relations between our two countries and the concern of the United States over treatment of United States citizens arrested in Mexico.

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[7] Sec. 406, which had prohibited military assistance, sales, the issuance of export licenses under the Arms Export Control Act, Economic Support Fund aid, and peacekeeping programs for Chile and had placed conditions and limitations on economic assistance for Chile during the transition quarter and fiscal year 1977, was repealed by sec. 726(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1554). While sec. 726 lifted this prohibition, it also imposed certain conditions and restrictions on future U.S. aid to Chile. For text of sec. 726, see page 416.

[8] 22 U.S.C. 2151 note.

[9] Subsec. (b), which had required a report from the President concerning the steps he had taken to carry out the provisions of section 407, was repealed by sec. 29(c)(1)(D) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 747).

[10] 22 U.S.C. 2291 note.

(2) [11] * * * [Repealed—1978]

EMERGENCY FOOD NEEDS OF PORTUGAL

Sec. 409.[12] It is the sense of the Congress that the President should undertake immediately an evaluation of the emergency food needs of Portugal. It is further the sense of the Congress that the President should take timely action to alleviate such emergency by providing Portugal with food commodities under the provisions of pertinent statutes.

STRIFE IN LEBANON

Sec. 410.[13] It is the sense of the Congress that the situation in Lebanon, a nation traditionally friendly to the United States, poses a danger to peace in the Middle East. The Congress deplores the armed civil strife and continuing erosion of national institutions which threaten to destroy the political and economic fabric of Lebanon with such tragic impact on all its people. The Congress views with grave concern any outside efforts to exploit the current strife with the purpose of transforming Lebanon into a radical state in confrontation with Israel. The Congress requests that the President use his good offices to secure an end to the civil strife and national discord in Lebanon and to preserve the traditional friendly attitude of Lebanon toward the United States.

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KOREA

Sec. 412.[14] The Congress views with distress the erosion of important civil liberties in the Republic of Korea and requests that the President communicate this concern in forceful terms to the Government of the Republic of Korea within sixty days after enactment.

REPEAL OF INDOCHINA ASSISTANCE

Sec. 413. (a) Part V of the Foreign Assistance Act of 1961 and sections 34, 35, 36, 37, 38, 39, and 40 of the Foreign Assistance Act of 1974 are repealed. All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this section shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

(b) Subject to the availability of appropriations therefore, the President is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract which had been funded or approved for funding by the Agency for International Development prior to June 30, 1975, for financing with funds made available under the Foreign Assistance Act of 1961 or the Foreign Assistance Act of 1974, or any equitable claim based upon a letter of intent issued prior to April 30, 1975, in which the Agency had expressed its intention to finance a transaction subject to the availability of funds, between the former Governments of Vietnam or Cambodia (including any of their agencies) or the Government of Laos (or any of its agencies) and any person and to apply with respect to any such contract the authorities of the Foreign Assistance Act of 1961.

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[11] Paragraph (2), which had required periodic reports from the Secretary of State concerning progress toward full respect for human and legal rights of U.S. citizens detained in Mexico, was repealed by sec. 29(b) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 747).

[12] 22 U.S.C. 2293 note.

[13] 22 U.S.C. 2441 note.

[14] 22 U.S.C. 2428 note.

(c) Funds made available for the purposes of part V of the Foreign Assistance Act of 1961 and of section 36 of the Foreign Assistance Act of 1974 (including amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955 (31 U.S.C. 200), as having been obligated against appropriations heretofore made) are authorized to be appropriated, and thereafter, to remain available until expended, to meet necessary expenses arising from the actions authorized by subsection (b) of this section and such funds are authorized to remain available until expended to meet necessary expenses arising from the termination of assistance programs authorized by such part and such section 36, which expenses may include but need not be limited to the settlement of claims and associated personnel costs

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INTERIM QUARTER AUTHORIZATIONS

Sec. 506.[15] (a) Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976, shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for the fiscal year 1976 and in accordance with the authorities applicable to operations and activities authorized under this Act or such other law, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

(b) The aggregate total of credits, including participations in credits, extended pursuant to the Arms Export Control Act and of the principal amount of loans guaranteed pursuant to section 24(a) of such Act during the period beginning July 1, 1976, and ending September 30, 1976, may not exceed an amount equal to one-fourth of the amount authorized by section 31(b) of such Act to be extended and guaranteed for the fiscal year 1976.

BASE AGREEMENTS WITH SPAIN, GREECE, AND TURKEY

Sec. 507.[16] * * * [Repealed—1981]

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[15] 22 U.S.C. 2162 note.

[16] Sec. 507, which had authorized the appropriation of "such sums as may be necessary for the fiscal year 1977" to carry out base agreements with Spain, Greece, and Turkey, was repealed by sec. 734(a)(14) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

TITLE VI—MISCELLANEOUS PROVISIONS

EXPEDITED PROCEDURE IN THE SENATE

Sec. 601. (a)(1) The provisions of subsection (b) of this section shall apply with respect to the consideration in the Senate of any resolution required by law to be considered in accordance with such provisions.

(2) Any such law shall—

(A) state whether the term "resolution" as used in subsection (b) of this section, means, for the purposes of such law—

(i) a joint resolution; or

(ii) a resolution of either House of Congress;

(iii) a concurrent resolution; and

(B) specify the certification to which such resolution shall apply.

(b)(1) For purposes of any such law, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subsection (a)(1) of this section; and they supersede other rules of the Senate only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same certification which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same certification.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4)(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

PROCUREMENTS FROM SMALL BUSINESSES

Sec. 602. In order to encourage procurements from small business concerns under chapter 4 of the Foreign Assistance Act of 1961, the Administrator of the Agency for International Development shall report to the Congress every six months on the extent to which small businesses have participated in procurements under such chapter and on what efforts the Agency has made to foster such procurements from small business concerns. The Small Business Administration shall lend all available assistance to the Agency for the purpose of carrying out this section.[17]

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USE OF PERSONNEL

Sec. 605.[18] (a) Nothing in this Act is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of Defense assigned to carry out functions under the Arms Export Control Act and the Foreign Assistance Act of 1961.

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[17] The responsibilities vested to the Administrator of AID under this section were transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[18] 22 U.S.C. 2751 note.

EXTORTION AND ILLEGAL PAYMENTS

Sec. 607.[19] Within 60 days after receiving information which substantiates that officials of a foreign country receiving international security assistance have (1) received illegal or otherwise improper payments from a United States corporation in return for a contract to purchase defense articles or services from such corporation, or (2) extorted, or attempted to extort, money or other things of value in return for actions by officials of that country that permit a United States citizen or corporation to conduct business in that country, the President shall submit to Congress a report outlining the circumstances of such payment or extortion. The report shall contain a recommendation from the President as to whether the United States should continue a security assistance program for that country.

EXTENSION OF AIRPORT AT PINECREEK, MINNESOTA

Sec. 608. The consent of Congress is hereby granted for the State of Minnesota or a subdivision or instrumentality thereof to enter into an agreement with the Government of Canada, a Canadian Province, or a subdivision or instrumentality of either, providing for the extension of the Pinecreek Airport at Pinecreek, Minnesota, into the Province of Manitoba, Canada, and the operation of the airport by a joint Canadian-American airport authority. The effectiveness of such agreement shall be conditioned on its approval by the Secretary of State.

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[19] 22 U.S.C. 2394a.

w. International Development and Food Assistance Act of 1975

Partial text of Public Law 94-161 [H.R. 9005], 89 Stat. 849, approved December 20, 1975 as amended by Public Law 97-113 [S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

> NOTE.—Except for the provisions noted below, the International Development and Food Assistance Act of 1975 consists of amendments to the FA Act of 1961, the FA Act of 1974, and the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

AN ACT To authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Development and Food Assistance Act of 1975".

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REPORT REGARDING IMPLEMENTATION OF RECOMMENDATIONS OF WORLD FOOD CONFERENCE

Sec. 213.[1] * * * [Repealed—1981]

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LIMITATION ON ASSISTANCE TO CHILE

Sec. 320. Notwithstanding any other provision of law, the total amount of economic assistance (including but not limited to housing guaranties and sales under title I of the Agricultural Trade Development and Assistance Act of 1954) that may be made available to Chile may not exceed $90,000,000 during the fiscal year 1976.

SETTLEMENT OF DEBT OWED THE UNITED STATES

Sec. 321.[2] No debt owed to the United States by any foreign country with respect to the payment of any loan made under any program funded under this Act may be settled in an amount less than the full amount of such debt unless the Congress by concurrent resolution approves of such settlement.

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[1] Sec. 213, which had required a report from the President on steps he had taken to carry out the recommendations of the World Food Conference, was repealed by sec. 734(a)(7) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on November 1, 1976.

[2] 22 U.S.C. 2220a note.

PARTICIPATION BY OTHER COUNTRIES IN PROVIDING ASSISTANCE TO ISRAEL OR EGYPT

Sec. 322. It is the sense of the Senate that the President should attempt to negotiate an equitable share of participation by the countries of Western Europe, Japan, and the United Nations in providing assistance to Israel or Egypt.

x. Foreign Assistance Act of 1974

Partial text of Public Law 93-559 [S. 3394], 88 Stat. 1795, approved December 30, 1974, as amended by Public Law 94-329 [International Security Assistance and Arms Export Control Act of 1976, H.R. 13680], 90 Stat. 729 at 761, approved June 30, 1976; and by Public Law 97-113 [S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

> NOTE.—Except for the provisions noted below, the FA Act of 1974 consists of amendments to the FA Act of 1961, the Foreign Military Sales Act, and the 1971 Act to amend the FMS Act.

AN ACT To amend the Foreign Assistance Act of 1961, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1974".

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CEILING ON FERTILIZERS TO SOUTH VIETNAM

Sec. 3.[1] * * * [Repealed—1981]

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REVIEW OF MILITARY ASSISTANCE PROGRAM

Sec. 17.[2] * * * [Repealed—1978]

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LIMITATION UPON ASSISTANCE TO OR FOR CHILE

Sec. 25.[3] * * * [Repealed—1981]

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[1] Sec. 3, which had prohibited the use of funds during fiscal year 1975 to procure agricultural fertilizers for South Vietnam and set a ceiling for the procurement of such fertilizers in future years for South Vietnam, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[2] Sec. 17 was repealed by sec. 29(c)(4) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 747).

[3] Sec. 25, which had limited assistance to Chile during fiscal year 1975 to $25,000,000 (which could not include military aid or security supporting assistance), was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

LIMITATION ON MILITARY ASSISTANCE AND EXCESS DEFENSE ARTICLES TO KOREA

Sec. 26.[4] * * * [Repealed—1981]

LIMITATION ON ASSISTANCE FOR INDIA

Sec. 27.[5] * * * [Repealed—1981]

FAMINE OR DISASTER RELIEF

Sec. 28.[6] (a) * * *

(b) Of the funds appropriated to carry out section 639 of the Foreign Assistance Act of 1961, during fiscal year 1975 not less than $25,000,000 shall be made available to Cyprus for the purposes of such section 639.

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Sec. 34.[7] * * * [Repealed—1976]
Sec. 35.[7] * * * [Repealed—1976]
Sec. 36.[7] * * * [Repealed—1976]
Sec. 37.[7] * * * [Repealed—1976]
Sec. 38.[7] * * * [Repealed—1976]
Sec. 39.[7] * * * [Repealed—1976]
Sec. 40.[7] * * * [Repealed—1976]

NUCLEAR POWERPLANTS

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Sec. 43.[8] * * * [Repealed—1981]

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GORGAS MEMORIAL INSTITUTE

Sec. 47.[9] The first section of the Act entitled "An Act to authorize a permanent annual appropriation for the maintenance and operation of the Gorgas Memorial", approved May 7, 1928, is amended by striking out "$500,000" and inserting "$2,000,000" in lieu thereof.

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[4] Sec. 26, which had set a ceiling of $145,000,000 in military assistance and $165,000,000 in excess defense articles for Korea during fiscal year 1975, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97-118, 95 Stat. 1560).

[5] Sec. 27, which had set a limit of $50,000,000 in economic and military assistance for India during fiscal year 1975, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[6] 22 U.S.C. 2399 note.

[7] Secs. 34, 35, 36, 37, 38, 39, and 40, all relating to U.S. Policy in Indochina, were repealed by sec. 413(a) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 761). For complete text of sec. 413, see page 474.

[8] Sec. 43, which had prohibited the use of funds authorized by this Act from supporting the construction, operation, maintenance, or the supply of fuel for any nuclear powerplant in Israel or Egypt, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[9] 22 U.S.C. 278.

INTERNATIONAL COMMISSION OF CONTROL AND SUPERVISION IN VIETNAM

Sec. 48.[10] (a) There are authorized to be appropriated to the Department of State for fiscal year 1975 not to exceed $16,526,000 for payments by the United States to help meet expenses of the International Commission of Control and Supervision in Vietnam. Funds appropriated under this subsection are authorized to be made available for reimbursement to the Agency for International Development of amounts expended by the Agency during fiscal year 1975 as interim United States payments to help meet expenses of the International Commission of Control and Supervision.

(b) There are authorized to be appropriated to the Department of State not to exceed $11,200,000 for reimbursement to the Agency for International Development of amounts expended by the Agency for International Development to help meet expenses of the International Commission on Control and Supervision in fiscal year 1974.

(c) Reimbursements received by the Agency for International Development under this section may be credited to applicable appropriations of the Agency and shall be available for the purposes for which such appropriations are authorized to be used during fiscal year 1975.

POLICY ON ASSISTANCE TO AFRICA

Sec. 49.[11] * * * [Repealed—1981]

POLICY ON THE INDEPENDENCE OF ANGOLA, MOZAMBIQUE, AND GUINEA-BISSAU

Sec. 50.[12] (a)(1) Congress finds that the Government of Portugal's recognition of the right to independence of the African territories of Angola, Mozambique, and Guinea-Bissau marks a significant advance toward the goal of self-determination for all the peoples of Africa, without which peace on the continent is not secure.

(2) Congress finds that progress toward independence for the Portuguese African territories will have a significant impact on the international organizations and the community of nations.

(3) Congress commends the Portuguese Government's initiatives on these fronts as evidence of a reaffirmation of that Government's support for her obligations under both the United Nations Charter and the North Atlantic Treaty Organizations.

(b) Therefore, Congress calls upon the President and the Secretary of State to take the following actions designed to make clear United States support for a peaceful and orderly transition to independence in the Portuguese African territories:

(1) An official statement should be issued of United States support for the independence of Angola, Mozambique, and

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[10] 22 U.S.C. 2431 note.

[11] Sec. 49, which had required a report from the President on action taken to provide the developing countries of Africa with an equitable share of U.S. economic assistance, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[12] 22 U.S.C. 2166 note.

Guinea-Bissau, and of our desire to have good relations with the future governments of the countries.

(2) It should be made clear to the Government of Portugal that we view the efforts toward a peaceful and just settlement of the conflict in the African territories as consistent with Portugal's obligations under the North Atlantic Treaty Organization partnership.

(3) The United States should encourage United Nations support for a peaceful transition to independence, negotiated settlement of all differences, and the protection of human rights of all citizens of the three territories.

(4) The United States should open a dialog with potential leaders of Angola, Mozambique, and Guinea-Bissau and assure them of our commitment to their genuine political and economic independence.

(5) The economic development needs of the three territories will be immense when independence is achieved. Therefore, it is urged that the United States Agency for International Development devote attention to assessing the economic situation in Angola, Mozambique, and Guinea-Bissau and be ready to cooperate with the future governments in providing the kind of assistance that will help make their independence viable. In addition, the United States Government should take the initiative among other donors, both bilateral and multilateral, in seeking significant contribution of development assistance for the three territories.

(6) In light of the need of Angola, Mozambique, and Guinea-Bissau for skilled and educated manpower, a priority consideration should be given to expanding current United States programs of educational assistance to the territories as a timely and substantive contribution to their independence.

(c) [13] * * * [Repealed—1981]

CONVENTIONAL ARMS TRADE

Sec. 51.[14] (a) It is the sense of the Congress that the recent growth in international transfers of conventional arms to developing nations—

(1) is a cause for grave concern for the United States and other nations in that in particular areas of the world it increases the danger of potential violence among nations, and diverts scarce world resources from more peaceful uses; and

(2) could be controlled progressively through negotiations and agreements among supplier and recipient nations.

(b) Therefore, the President is urged to propose to the Geneva Conference of the Committee on Disarmament that it consider as a high priority agenda item discussions among participating nations of that Conference for the purposes of—

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[13] Subsec. (c), which had required a report from the President on the implementation of the proposals outlined in subsec. (b), was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report to Congress on June 4, 1975.

[14] 22 U.S.C. 2551 note.

(1) agreeing to workable limitations on conventional arms transfers; and

(2) establishing a mechanism through which such limitations could be effectively monitored.

(c)[15] * * * [Repealed—1981]

INVOLVEMENT OF PUERTO RICO IN THE CARIBBEAN DEVELOPMENT BANK

Sec. 52. (a) The President may transmit to the Caribbean Development Bank an instrument stating that the Commonwealth of Puerto Rico has the authority to conclude an agreement of accession with such Bank and to assume rights and obligations pursuant to such agreement. However, such agreement may only be concluded after it has been approved by the United States Secretary of State.

(b) The instrument transmitted by the President to the Caribbean Development Bank under subsection (a) shall state that the United States shall not assume any financial or other responsibility for the performance of any obligation incurred by the Commonwealth of Puerto Rico pursuant to such agreement of accession or pursuant to any other aspect of its membership or participation in such Bank.

(c) Such agreement of accession shall provide that the Commonwealth of Puerto Rico may not receive from the Caribbean Development Bank any funds provided to the Bank by the United States.

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POLICY WITH RESPECT TO COUNTRIES MOST SERIOUSLY AFFECTED BY FOOD SHORTAGES

Sec. 55.[16] (a) The United Nations has designated thirty-two countries as "Most Seriously Affected" by the current economics crisis. These are countries without the internal food production capability or the foreign exchange availability to secure food to meet their immediate food requirements. The Congress calls upon the President and Secretary of State to take the following actions designed to mobilize appropriate resources to meet the food emergency:

(1) Review and make appropriate adjustments in the level of programming of our food and fertilizer assistance programs with the aim of increasing to the maximum extent feasible the volume of food and fertilizer available to those countries most seriously affected by current food shortages.

(2) Call upon all traditional and potential new donors of food, fertilizer, or the means financing these commodities to immediately increase their participation in efforts to address the emergency food needs of the developing world.

(3) Make available to these most seriously affected countries the maximum feasible volume of food commodities, with appro-

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[15] Subsec. (c), which had required a report from the President on steps he has taken to carry out this section, was repealed by sec. 734(a)(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report on June 30, 1975.

[16] 22 U.S.C. 2175 note.

priate regard to the current domestic price and supply situations.

(4) Maintain regular and full consultation with the appropriate committees of the Congress and report to the Congress and the Nation on steps which are being taken to help meet this food emergency. In accordance with this provision, the President shall report to the Congress on a global assessment of food needs for fiscal year 1975, specifying expected food grain deficits and currently planned programming of food assistance, and steps which are being taken to encourage other countries to increase their participation in food assistance or the financing of food assistance. Such report should reach the Congress promptly and should be supplemented quarterly for the remainder of fiscal year 1975.

(5) The Congress directs that during the fiscal year ending June 30, 1975, not more than 30 percent of concessional food aid should be allocated to countries other than those which are most seriously affected by current food shortages, unless the President demonstrates to the appropriate Committees of the Congress that use of such food assistance is solely for humanitarian food purposes.

(6) The Congress calls upon the President to proceed with the implementation of resolutions and recommendations adopted by the World Food Conference. The Congress believes that it is incumbent upon the United States to take a leading role in assisting in the development of a viable and coherent world food policy which would begin the task of alleviating widespread hunger and suffering prevalent in famine-stricken nations. The President shall report to the Congress within 120 days of enactment of this Act on the implementation of the resolutions and the extent to which the United States is participating in the implementation of resolutions adopted at the World Food Conference.

REPAYMENT OF LOANS IN DEFAULT

Sec. 56.[17] It is the sense of the Congress that any country receiving assistance under the Foreign Assistance Act of 1961 which is in default, at least 90 days prior to the date of enactment of this Act, of any payment of principal or interest due on any loan or credit received from the United States shall promptly pay all such principal and interest. It is further the sense of the Congress that the President shall promptly enter into negotiations with each such country to help effectuate the payment of such principal and interest, or to effectuate the transfer by such country to the United States of goods, services, concessions, or actions beneficial to the United States, in lieu of the payment of such principal and interest.

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[17] 22 U.S.C. 2379 note.

y. Foreign Assistance Act of 1973

Partial text of Public Law 93-189 [S. 1443], 87 Stat. 714, approved December 17, 1973, as amended by Public Law 97-113 [S. 1196], 95 Stat. 1519 at 1560, approved December 29, 1981

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> NOTE.—Except for the provisions noted below, the FA Act of 1973 consists of amendments to the FA Act of 1961, the Foreign Military Sales Act, the 1971 Act to amend the FMS Act, and Sec. 414 of the Mutual Security Act of 1954.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1973".

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ASIAN DEVELOPMENT BANK

Sec. 28.[1] Section 17 of the Asian Development Bank Act[2] is amended by striking out "$60,000,000 for fiscal year 1972 and $40,000,000 for fiscal year 1973" and inserting in lieu thereof "$100,000,000".

Sec. 29.[3] * * * [Repealed—1974]

TERMINATION OF INDOCHINA WAR

Sec. 30.[1] No funds authorized or appropriated under this or any other law may be expended to finance military or paramilitary operations by the United States in or over Vietnam, Laos, or Cambodia.

LIMITATION ON USE OF FUNDS

Sec. 31.[1] No funds authorized or appropriated under any provision of law shall be made available for the purpose of financing directly or indirectly any military or paramilitary combat operations by foreign forces in Laos, Cambodia, North Vietnam, South Vietnam, or Thailand unless (1) such operations are conducted by the forces of that government receiving such funds within the borders of that country, or (2) specifically authorized by law enacted after the date of enactment of this Act.

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[1] 22 U.S.C. 2151 note.

[2] For text, see vol. III, sec. I.

[3] Former sec. 29 regarding access to certain military bases abroad was repealed by sec. 29(b) of the FA Act of 1974.

POLITICAL PRISONERS

Sec. 32.[4] It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

ALBERT SCHWEITZER HOSPITAL

Sec. 33.[4] There is authorized to be appropriated to the President for fiscal year 1974 $1,000,000 [5] to make grants, on such terms and conditions as he may specify, to the Albert Schweitzer Hospital in Gabon.

PRISONERS OF WAR AND INDIVIDUALS MISSING IN ACTION

Sec. 34.[4] (a) The Congress declares that—

(1) the families of those one thousand three hundred individuals missing in action during the Indochina conflict have suffered extraordinary torment in ascertaining the full and complete information about their loved ones who are formally classified as missing in action;

(2) United States involvement in the Indochina conflict has come to a negotiated end with the signing of the Vietnam Agreement in Paris on January 27, 1973, and section 307 of the Second Supplemental Appropriations Act, 1973, requires that "None of the funds herein appropriated under this Act may be expended to support directly or indirectly combat activities in or over Cambodia, Laos, North Vietnam and South Vietnam or off the shores of Cambodia, Laos, North Vietnam and South Vietnam by United States forces, and after August 15, 1973, no other funds heretofore appropriated under any other Act may be expended for such purpose.";

(3) the question of the return of prisoners of war and accounting for individuals missing in action and dead in Laos is covered by article 18 of the Protocol signed by representatives of the Lao Patriotic Front (Pathet Lao) and the Royal Laotian Government in Vientiane on September 14, 1973 (which implements article 5 of the Agreement signed by the Pathet Lao and that government in Vientiane on February 21, 1973, requiring the release of all prisoners "regardless of nationality" captured and held in Laos), and paragraph C of such article 18 provides that, within "15 to 30 days" from the date of the signing of the Protocol, each side is to report the number of those prisoners and individuals still held, with an indication of their nationality and status, together with a list of names and any who died in captivity; and

(4) few of the United States men lost in Laos during the military engagements in Indochina have been returned, and with knowledge about many of these men not yet being fully disclosed, and the North Vietnam cease-fire provisions calling for

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[4] 22 U.S.C. 2151 note.

[5] FA Appropriations Act, 1974: $1,000,000.

inspection of crash and grave sites and for other forms of cooperation have not been fully complied with.

(b) It is, therefore, the sense of the Congress that—

(1) the provisions for the release of prisoners and an accounting of individuals missing and dead, as provided for in article 18 of the Protocol signed on September 14, 1973, by the Pathet Lao and the Royal Laotian Government, be adhered to in spirit and in deed; and

(2) the faithful compliance with the spirit of the Laotian Agreement and Protocol on the question of individuals missing in action will encourage all parties in Indochina to cooperate in providing complete information on all nationals of any nation who may be captured or missing at any place in Indochina.

RIGHTS IN CHILE

Sec. 35.[6] It is the sense of the Congress that (1) the President should request the Government of Chile to protect the human rights of all individuals, Chilean and foreign, as provided in the Universal Declaration of Human Rights, the Convention and Protocol Relating the Status of Refugees, and other relevant international legal instruments guaranteeing the granting of asylum, safe conduct, and the humane treatment or release of prisoners; (2) the President should support international humanitarian initiatives by the United Nations High Commissioner for Refugees and the International Committee of the Red Cross to insure the protection and safe conduct and resettlement of political refugees, the humane treatment of political prisoners, and the full inspection of detention facilities under international auspices; (3) the President should support and facilitate efforts by voluntary agencies to meet emergency relief needs; and (4) the President should request of the Inter-American Commission on Human Rights to undertake an immediate inquiry into recent events occurring in Chile.

REVISION OF SOCIAL PROGRESS TRUST FUND AGREEMENT

Sec. 36.[6] (a) The President or his delegate shall seek, as soon as possible, a revision of the Social Progress Trust Fund Agreement (dated June 19, 1961) between the United States and the Inter-American Development Bank. Such revision should provide for the—

(1) periodic transfer of unencumbered capital resources of such trust fund, and of any future repayments or other accruals otherwise payable to such trust fund, to the Inter-American Foundation, to be administered by the Foundation for purposes of part IV of the Foreign Assistance Act of 1969[7] (22 U.S.C. 290f and following);

(2) utilization of such unencumbered capital resources, future repayments, and other accruals by the Inter-American Development Bank for purposes of sections 1 and 2 of the Latin American Development Act[8] (22 U.S.C. 1942 and 1943) in such

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[6] 22 U.S.C. 2151 note.

[7] For text, see page 499.

[8] For text, see page 591.

a way that the resources received in the currencies of the more developed member countries are utilized to the extent possible for the benefit of the lesser developed member countries; or

(3) both the transfer described in paragraph (1) and the utilization described in paragraph (2).

(b) Any transfer or utilization under this section shall be in such proportions as may be agreed to between the United States and the Inter-American Development Bank.

(c) Any transfer under subsection (a)(1) shall be in the amounts, and in available currencies, determined in consultation with the Inter-American Foundation, to be required for its program purposes.

(d) The revision of the Social Progress Trust Fund Agreement pursuant to this section shall provide that the President or his delegate shall specify, from time to time, after consultation with the Inter-American Development Bank, the particular currencies to be used in making the transfer or utilization described in the section.

(e) [9] * * * [Repealed—1981]

PROHIBITION ON ASSISTANCE TO NORTH VIETNAM

Sec. 37.[10] * * * [Repealed—1981]

REPORT CONCERNING CERTAIN USE OF MILITARY ASSISTANCE IN AFRICA

Sec. 38.[11] * * * [Repealed—1981]

WORLD FOOD SHORTAGES

Sec. 39.[12] (a) It is the sense of the Congress that the United States should participate fully in efforts to alleviate current and future food shortages which threaten the world. To this end, the President shall—

(1) encourage, support, and expedite studies relating to the long-range implications of the world food situation (including studies of national and world production, distribution, and utilization of agricultural commodities and other foodstuffs) and support the organizing of a world food conference under United Nations auspices in 1974;

(2) request the member nations of the General Agreement on Tariffs and Trade to explore the means of assuring equitable access by all nations to national markets and mineral and agricultural resources;

(3) Consult and cooperate with appropriate international agencies, such as the Food and Agricultural Organization of

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[9] Subsec. (e), which had required a report from the President on his action taken pursuant to this section, was repealed by sec. 734(a)(9) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this report on January 3, 1974.

[10] Sec. 37, which had prohibited the use of funds authorized in this Act (fiscal year 1974) for assistance to North Vietnam, was repealed by sec. 734(a)(9) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[11] Sec. 38, which had required the President to make a determination with respect to the use, if any, by any non-African country in support of its military activities in its African territories of U.S. economic military, or food assistance, was repealed by sec. 734(a)(9) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560). The President submitted this determination to Congress on May 3, 1974.

[12] 22 U.S.C. 2220 note.

the United Nations, in determining the need for, the feasibility of, and cost of an equitably-shared basis of, establishing an international system of strategic food reserves; and

(4) report his findings and recommendations to the Congress on the implementation of this section no later than December 31, 1974.

(b) It is further the sense of the Congress that—

(1) in making assessments which would affect or relate to the level of domestic production, the Executive Branch should include in the estimates of overall utilization the expected demands for humanitarian food assistance through such programs as are carried out under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480); and

(2) legislation providing increased flexibility for responding to emergency and humanitarian requirements for food assistance should be considered as promptly as possible to the end that the last sentence of section 401 of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), may be amended by striking the period and inserting in lieu thereof a comma and the following: "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act."

USE OF LOCAL CURRENCIES [13]

Sec. 40.[14] Effective July 1, 1974, no amount of any foreign currency (including principal and interest from loan repayments) which accrues in connection with any sale for foreign currency under any provision of law may be used under any agreement entered into after the date of the enactment of this Act, or any revision or extension entered into after such date of any prior or subsequent agreement, to provide any assistance to any foreign country to procure equipment, materials, facilities, or services for the common defense, including internal security unless such agreement is specifically authorized by legislation enacted after such date.

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[13] See also Mutual Security Act of 1954, as amended (Public Law 83-665, 68 Stat. 832), sec. 502, Use of Foreign Currencies, page 597.

[14] 22 U.S.C. 2151 note.

z. Foreign Assistance Act of 1971

Partial text of Public Law 92-226 [S. 2819], 86 Stat. 20, approved February 7, 1972

AN ACT To amend the Foreign Assistance Act of 1961, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1971".

> NOTE.—Except for the provisions quoted here, the FA Act of 1971 consists of amendments to the FA Act of 1961, the Foreign Military Sales Act, the 1971 Act to amend the FMS Act, the Act to authorize participation by the United States in the Interparliamentary Union, the Joint Resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization, Part IV of the FA Act of 1969, the Act to provide certain basic authority for the Department of State, the United States Information and Educational Exchange Act of 1948, the Special FA Act of 1971, and Public Law 89-367 (Armed Forces Appropriation Authorization, 1966).

FOOD-FOR-PEACE PROGRAM

Sec. 2.[1] It is the sense of the Congress that funds to administer the food-for-peace program should not be reduced as the result of any reduction in the authorizations provided to carry out the Foreign Assistance Act of 1961.

* * * * * * *

Sec. 304. * * *

(c) * * *

(3) The provisions of this subsection [2] and section 657 of such Act, as added by subsection (b) of this Act, shall apply with respect to each fiscal year commencing on or after July 1, 1971.

PART IV—MISCELLANEOUS PROVISIONS

* * * * * * *

Sec. 403. Paragraph (9) of section 5314 of title 5, United States Code, relating to level III of the Executive Schedule, is amended by inserting before the period at the end thereof the following: "and an Under Secretary of State for Coordinating Security Assistance Programs".

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[1] 22 U.S.C. 2151 note. See also the Food for Peace Act of 1966 (Public Law 89-808, 80 Stat. 1526), page 1042.

[2] This subsection provided that the definition of "Value" appearing in sec. 644(m) was not applicable when the word "Value" was used in sec. 657.

* * * * * * *

Sec. 407.[3] (a) It is the purpose of this section to enable the Congress generally, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives in particular, to carry out the purposes and intent of the Legislative Reorganization Acts of 1946 and 1970, with respect to—

(1) the analysis, appraisal, and evaluation of the application, administration, and execution of the laws relating to the Department of State and the United States Information Agency and of matters relating to the foreign relations of the United States; and

(2) providing periodic authorizations of appropriations for that Department and Agency.

* * * * * * *

Sec. 410.[4] The Congress strongly urges the President to undertake such negotiations as may be necessary to implement that portion of the recommendations of the Report of the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations (known as the "Lodge Commission") which proposes that the portion of the regular assessed costs to be paid by the United States to the United Nations be reduced so that the United States is assessed in each year not more than 25 per centum of such costs assessed all members of the United Nations for that year.

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[3] See also sec. 15 of the State Department Basic Authorities Act of 1956 (Public Law 84-885, 70 Stat. 890), vol. II, sec. D; and sec. 701 of the United States Information and Education Exchange Act of 1948 (Public Law 80-402, 62 Stat. 6), vol II, sec. E.

[4] See also Appropriations Limitation on Contributions to International Organizations (Public Law 92-544, 86 Stat. 1109), vol II, sec. H.

aa. Special Foreign Assistance Act of 1971, as amended

Partial text of Public Law 91-652 [H.R. 19911), 84 Stat. 1942, approved January 5, 1971, as amended by Public Law 92-226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 27, 35, approved February 7, 1972

> NOTE.—Except for the provisions noted below, the Special Foreign Assistance Act of 1971 consists of amendments to the FA Act of 1961.

AN ACT To provide additional foreign assistance authorizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Foreign Assistance Act of 1971".

Sec. 2. There are authorized to be appropriated to the President for the fiscal year 1971 not to exceed—

(1) $85,000,000 for additional military assistance and $70,000,000 for special economic assistance for Cambodia;

(2) $100,000,000 for economic and military assistance programs to replace funds which were transferred by the President for use in Cambodia;

(3) $150,000,000 for additional military assistance for the Republic of Korea;

(4) $30,000,000 for additional military assistance for Jordan;

(5) $3,000,000 for additional military assistance for Indonesia and $10,000,000 to replace funds transferred from other programs for use in Indonesia;

(6) $5,000,000 for additional military assistance for Lebanon;

(7) $65,000,000 for additional supporting assistance for Vietnam; and

(8) $17,000,000 for additional general military assistance to compensate for a shortage in anticipated recovery of funds from past years' programs.

Sec. 3.[1] The President is authorized, until June 30, 1972, to transfer to the Republic of Korea such defense articles located in Korea and belonging to the Armed Forces of the United States on July 1, 1970, as he may determine, except that no funds heretofore or hereafter appropriated under this Act or the Foreign Assistance Act of 1961 shall be available for reimbursement to any agency of the United States Government for any transfer made pursuant to this section.

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[1] 22 U.S.C. 2302 note.

Sec. 4. Except as otherwise provided in this Act, any assistance furnished out of funds appropriated under section 2 of this Act and any transfer made under section 3 of this Act shall be furnished or transferred, as the case may be, in accordance with all of the purposes and limitations applicable by statute to that type of assistance or transfer under the Foreign Assistance Act of 1961 (including the provisions of section 652 [2] of such Act, as added by section 8 of this Act).

* * * * * * *

Sec. 6. (a) * * *

(b) [3] Excess foreign currencies held in Pakistan not allocated on the date of enactment of this section are authorized to be appropriated for a period of one year from such date of enactment to help Pakistan withstand the disaster which has occurred.

Sec. 7.[4] (a) In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisers to or for military, paramilitary, police, or other security or intelligence forces [5] in Cambodia.

(b) Military and economic assistance provided by the United States to Cambodia and authorized or appropriated pursuant to this or any other Act shall not be construed as a commitment by the United States to Cambodia for its defense.

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[2] For text of sec. 652 as added to the FA Act of 1961 by sec. 8 of this Act, see page 240.

[3] 22 U.S.C. 2261 note.

[4] 22 U.S.C. 2411 note.

[5] The words "military, paramilitary, police, or other security or intelligence forces" were substituted in lieu of "Cambodian military forces" by sec. 408 of the Foreign Assistance Act of 1971 (Public Law 92-226, 86 Stat. 20.

bb. Foreign Military Sales Act Amendments, 1971, as amended

Partial text of Public Law 91-672 [H.R. 15628], 84 Stat. 2053, approved January 12, 1971, as amended by Public Law 92-226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, 33, approved February 7, 1972; Public Law 93-189 [Foreign Assistance Act of 1973, S. 1443], 87 Stat. 714, 729, approved December 17, 1973; Public Law 93-559 [Foreign Assistance Act of 1974, S. 3394], 88 Stat. 1795, 1799, approved December 31, 1974; Public Law 94-329 [International Security Assistance and Arms Export Control Act of 1976, H.R. 13680], 90 Stat. 729, approved June 30, 1976; Public Law 95-384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 747, approved September 26, 1978; and by Public Law 97-113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1579 at 1560, approved December 29, 1981

AN ACT To amend the Foreign Military Sales Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled * * *

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> NOTE.—Sections 1-4 of this Act amend the Foreign Military Sales Act (Arms Export Control Act), Public Law 90-629, October 22, 1968.

* * * * * * *

Sec. 5.[1] It is the sense of Congress that (1) the President should continue to press forward urgently with his efforts to negotiate with the Soviet Union and other powers a limitation on arms shipments to the Middle East, (2) the President should be supported in his position that arms will be made available and credits provided to Israel and other friendly states, to the extent that the President determines such assistance to be needed in order to meet threats to the security and independence of such states, and (3) if the authorization provided in the Foreign Military Sales Act, as amended, should prove to be insufficient to effectuate this stated policy, the President should promptly submit to the Congress requests for an appropriate supplementary authorization and appropriation.

Sec. 6.[1] It is the sense of the Congress that—

(1) the President should immediately institute a thorough and comprehensive review of the military aid programs of the United States, particularly with respect to the military assistance and sales operations of the Department of Defense, and

(2) the President should take such actions as may be appropriate—

(A) to initiate multilateral discussions among the United States, the Union of Soviet Socialist Republics, Great Britain, France, West Germany, Italy and other countries on the control of the worldwide trade in armaments,

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[1] 22 U.S.C. 2751 note.

(B) to commence a general debate in the United Nations with respect to the control of the conventional arms trade, and

(C) to use the power and prestige of his office to signify the intention of the United States to work actively with all nations to check and control the international sales and distribution of conventional weapons of death and destruction.

Sec. 7.[2] * * *

Sec. 8.[3] (a)[4] * * * [Repealed—1976]

(b)[4] * * * [Repealed—1976]

(c)[4] * * * [Repealed—1976]

(d) The President shall promptly and fully inform the Speaker of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of each decision to furnish on a grant basis to any country excess defense articles which are major weapons systems to the extent such major weapons system was not included in the presentation material previously submitted to the Congress. The annual presentation materials for security assistance programs shall include a table listing by country the total value of all deliveries of excess defense articles, disclosing both the aggregate original acquisition cost and the aggregate value at the time of delivery.[5]

(e)[4] * * * [Repealed—1976]

Sec. 9.[6] * * * [Repealed—1973]

Sec. 10.[7] (a) Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure—

(1) unless the appropriation thereof has been previously authorized by law; or

(2) in excess of an amount previously prescribed by law.

(b) To the extent that legislation enacted after the making of an appropriation for foreign assistance (including foreign military sales) authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of this section which specifically repeals or modifies the provisions of this section.

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[2] Sec. 7, which prohibited the sale, grant, loan, or transfer of any international fighter aircraft by the United States to any foreign country other than South Vietnam without specific authorization made in accordance with the Foreign Assistance Act of 1961 or the Foreign Military Sales Act, was repealed by sec. 734(a)(15) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1560).

[3] 22 U.S.C. 2321b.

[4] Subsecs. (a), (b), (c), and (e) of sec. 8, which related to excess defense articles, were repealed by sec. 210(c)(2) of the International Security Assistance and Arms Export Control Act of 1976. Sec. 210(c)(2) further stated, "All funds in the suspense account referred to in subsection (a) of such section on July 1, 1976, shall be transferred to the general fund of the Treasury."

[5] This report, which was originally required on a quarterly basis, was changed to an annual report by sec. 29(a) of the International Security Assistance Act of 1978 (Public Law 95-384, 92 Stat. 747).

[6] Sec. 9, which related to any transfer of a defense article to another country, was repealed by sec. 26(4) of the FA Act of 1973 (Public Law 93-189, 87 Stat. 714).

[7] 22 U.S.C. 2412.

Sec. 11.[8] For purposes of sections 8 and 9—

(1) "defense article" and "excess defense articles" have the same meanings as given them in section 644 (d) and (g), respectively, of the Foreign Assistance Act of 1961; and

(2) "foreign country" includes any department, agency, or independent establishment of the foreign country.

Sec. 12. The joint resolution entitled "Joint resolution to promote the maintenance of international peace and security in Southeast Asia" approved August 10, 1964 (78 Stat. 384; Public Law 88-408), is terminated effective upon the day that the second session of the Ninety-first Congress is last adjourned.

Sec. 13.[9] No funds authorized or appropriated pursuant to this or any other law may be used to transport chemical munitions from the Island of Okinawa to the United States. Such funds as are necessary for the detoxification or destruction of the above described chemical munitions are hereby authorized and shall be used for the detoxification or destruction of chemical munitions only outside the United States. For purposes of this section, the term "United States" means the several States and the District of Columbia.

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[8] 22 U.S.C. 2321c.

[9] 50 U.S.C. 1512 note.

cc. Foreign Assistance Act of 1969, as amended

Partial text of Public Law 91-175 [H.R. 14480], 83 Stat. 805, approved December 30, 1969, as amended by Public Law 92-226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, 34, approved February 7, 1972; Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 859, approved August 17, 1977; Public Law 97-241 [S. 1193], 96 Stat. 273 at 297, approved August 24, 1982; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985, H.R. 2915], 97 Stat. 1017 at 1051, approved November 22, 1983; Public Law 99-83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190 at 247, approved August 8, 1985; and by Public Law 99-529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986

NOTE.—Except for Part IV, which relates to the Inter-American Social Development Institute (title changed to The Inter-American Foundation Act by Sec. 406(1) of the FA Act of 1971) and Part V, which relates to amendments to other acts, the Foreign Assistance Act of 1969 consists of amendments to the Foreign Assistance Act of 1961, as amended.

* * * * * * *

PART IV—THE INTER-AMERICAN FOUNDATION ACT [1]

Sec. 401.[2] Inter-American Foundation.—(a) There is created as an agency of the United States of America a body corporate to be known as the Inter-American Foundation (hereinafter in this section referred to as the "Foundation").[3]

(b) The future of freedom, security, and economic development in the Western Hemisphere rests on the realization that man is the foundation of all human progress. It is the purpose of this section to provide support for developmental activities designed to achieve conditions in the Western Hemisphere under which the dignity and the worth of each human person will be respected and under which all men will be afforded the opportunity to develop their potential, to seek through gainful and productive work the fulfillment of their aspirations for a better life, and to live in justice and peace. To this end, it shall be the purpose of the Foundation,[4] primarily in cooperation with private, regional, and international organizations, to—

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[1] Sec. 406(1) of the Foreign Assistance Act of 1971 (Public Law 92-226, 86 Stat. 20), substituted the title "Part IV—The Inter-American Foundation Act" in lieu of "Part IV—Inter-American Social Development Institute".

[2] 22 U.S.C. 290f.

[3] The caption of sec. 401 and subsec. (a) thereof, which were amended by sec. 406(2) of the Foreign Assistance Act of 1971, (Public Law 92-226, 86 Stat. 20), formerly read as follows: "Inter-American Social Development Institute.—(a) There is created as an agency of the United States of America a body corporate to be known as the 'Inter-American Social Development Institute' (hereafter in this section referred to as 'Institute')."

[4] Sec. 406(3) of the Foreign Assistance Act of 1971 (Public Law 92-226, 86 Stat. 20), amended sec. 401 by substituting "Foundation" in lieu of "Institute" wherever it appeared.

(1) strengthen the bonds of friendship and understanding among the peoples of this hemisphere;

(2) support self-help efforts designed to enlarge the opportunities for individual development;

(3) stimulate and assist effective and ever wider participation of the people in the development process;

(4) encourage the establishment and growth of democratic institutions, private and governmental, appropriate to the requirements of the individual sovereign nations of this hemisphere.

In pursuing these purposes, the Foundation shall place primary emphasis on the enlargement of educational opportunities at all levels, the production of food and the development of agriculture, and the improvement of environmental conditions relating to health, maternal and child care, family planning, housing, free trade union development, and other social and economic needs of the people.

(c) The Foundation shall carry out the purposes set forth in subsection (b) of this section primarily through and with private organizations, individuals, and international organizations by undertaking or sponsoring appropriate research and by planning, initiating, assisting, financing, administering, and executing programs and projects designed to promote the achievement of such purposes.

(d) In carrying out its functions under this section, the Foundation shall, to the maximum extent possible, coordinate its undertakings with the developmental activities in the Western Hemisphere of the various organs of the Organization of American States, the United States Government, international organizations, and other entities engaged in promoting social and economic development of Latin America.

(e) The Foundation, as a corporation—

(1) shall have perpetual succession unless sooner dissolved by an Act of Congress;

(2) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) may make and perform contracts and other agreements with any individual, corporation, or other body of persons however designated whether within or without the United States of America, and with any government or governmental agency, domestic or foreign;

(4) [5] shall determine and prescribe the manner in which its obligations shall be incurred and its expenses, including expenses for representation (not to exceed $10,000 in any fiscal year), allowed and paid;

(5) may, as necessary for the transaction of the business of the Foundation, employ, and fix the compensation of not to exceed one hundred persons at any one time;

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[5] Sec. 401(e)(4) was amended by sec. 406(4) of the Foreign Assistance Act of 1971 (Public Law 92-226, 86 Stat. 20). It formerly read as follows: "(4) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid;".

(6) may acquire by purchase, devise, bequest, or gift, or otherwise lease, hold, and improve, such real and personal property as it finds to be necessary to its purposes, whether within or without the United States, and in any manner dispose of all such real and personal property held by it and use as general funds all receipts arising from the disposition of such property;

(7) shall be entitled to the use of the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(8) may, with the consent of any board, corporation, commission, independent establishment, or executive department of the Government, including any field service thereof, avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section;

(9) may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and make advances, grants, and loans to any individual, corporation, or other body of persons, whether within or without the United States of America, or to any government or governmental agency, domestic or foreign, when deemed advisable by the Foundation in furtherance of its purposes;

(10) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction; and

(11) shall have such other powers as may be necessary and incident to carrying out its powers and duties under this section.

(f) Upon termination of the corporate life of the Foundation all of its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

(g) The management of the Foundation shall be vested in a board of directors (hereafter in this section referred to as the "Board") composed of nine [6] members appointed by the President, by and with the advice and consent of the Senate, one of whom he shall designate to serve as Chairman of the Board and one of whom he shall designate to serve as Vice Chairman of the Board. Six members of the Board shall be appointed from private life. Three members of the Board shall be appointed from among officers or employees of agencies of the United States concerned with inter-American affairs. Members of the Board shall be appointed for terms of six years, except that of the members first appointed two shall be appointed for terms of two years and two shall be appointed for terms of four years, as designated by the President at the time of their appointment. A member of the Board appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term; but upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified. Members of the Board shall be eligible for reappointment.

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[6] Sec. 403(a) of Public Law 99-529, 100 Stat. 3010, added the numbers "nine" and "six", respectively in lieu of "seven" and "four".

(h) Members of the Board shall serve without additional compensation, but shall be reimbursed for travel expenses, including per diem, in lieu of subsistence, in accordance with section 5703 of title 5, United States Code,[7] while engaged in their duties on behalf of the corporation.

(i) The Board shall direct the exercise of all the powers of the Foundation.

(j) The Board may prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised and enjoyed. A majority of the Board shall be required as a quorum.

(k) In furtherance and not in limitation of the powers conferred upon it, the Board may appoint such committees for the carrying out of the work of the Foundation as the Board finds to be for the best interests of the Foundation, each committee to consist of two or more members of the Board, which committees, together with officers and agents duly authorized by the Board and to the extent provided by the Board, shall have and may exercise the powers of the Board in the management of the business and affairs of the Foundation.

(l)[8] (1) The chief executive officer of the Foundation shall be a President who shall be appointed by the Board of Directors on such terms as the Board may determine. The President shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) Experts and consultants, or organizations thereof, may be employed as authorized by section 3109 of title 5, United States Code.

(m) In order to further the purposes of the Foundation there shall be established a Council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable concerning developmental activities in the Western Hemisphere. The Board shall, from time to time, consult with the Council concerning the objectives of the Foundation. Members of the Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5, United States Code, for travel and other expenses incurred by them in the performance of their functions under this subsection.

(n) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of its directors, officers, and employees and such revenue, earnings, or other income, or property shall be used for the carrying out of the corporate purposes set forth in this section. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his personal interests or the interest of any corporation, partnership, or organization in which he is directly or indirectly interested.

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[7] The words "travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code" were inserted in lieu of "actual and necessary expenses not in excess of $50 per day, and for transportation expenses" by sec. 501(b) of Public Law 97-241 (96 Stat. 297).

[8] Sec. 406(5) of the Foreign Assistance Act of 1971 (Public Law 92-226, 86 Stat. 20), amended sec. 401(1), which formerly read as follows: "(1) The chief executive officer of the Institute shall be an Executive Director who shall be appointed by the Board of Directors on such terms as the Board may determine. The Executive Director shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title V, United States Code."

(o) When approved by the Foundation, in furtherance of its purpose, the officers and employees of the Foundation may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries.

(p) The Secretary of State shall have authority to detail employees of any agency under his jurisdiction to the Foundation under such circumstances and upon such conditions as he may determine. Any such employee so detailed shall not lose any privileges, rights, or seniority as an employee of any such agency by virtue of such detail.

(q) The Foundation shall establish a principal office. The Foundation is authorized to establish agencies, branch offices, or other offices in any place or places within the United States or elsewhere in any of which locations the Foundation may carry on all or any of its operations and business.

(r) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

(s)(1) Notwithstanding any other provision of law, not to exceed an aggregate amount of $50,000,000 of the funds made available for the fiscal years 1970 and 1971 to carry out part I of the Foreign Assistance Act of 1961 shall be available to carry out the purposes of this section. Funds made available to carry out the purposes of this section under the preceding sentence are authorized to remain available until expended.

(2)[9] There are authorized to be appropriated $11,969,000 for fiscal year 1986 and $11,969,000 for the fiscal year 1987 to carry out the purposes of this section.[10] Amounts appropriated under this paragraph are authorized to remain available until expended.

(t) The Foundation shall be subject to the provisions of the Government Corporation Control Act.

(u)[11] When, with the permission of the Foundation, funds made available to a grantee under this section are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purposes for which the grant was made. This subsection applies with respect to both interest earned before and interest earned after the enactment of this subsection.

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[9] Paragraph (2) was added by sec. 508 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-426, 91 Stat. 859).

[10] The authorization figures for fiscal years 1986 and 1987 were added by sec. 708 of the International Security and Development Cooperation Act of 1985 (Public Law 99-93, 99 Stat. 243).

Authorizations provided in recent years under this section include the following: Fiscal year 1982—$12,000,000; fiscal year 1983—$12,800,000; fiscal year 1984—$16,000,000; fiscal year 1985—$16,000,000; fiscal year 1988—no authorization.

Congress did not enact an authorization for fiscal year 1989. Instead the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) waived the requirement for authorizations and provided the following:

"INTER-AMERICAN FOUNDATION

"(INCLUDING TRANSFER OF FUNDS)

"For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $16,600,000."

[11] Subsec. (u) was added by sec. 501(c) of Public Law 97-241 (96 Stat. 297).

PART V—AMENDMENTS TO OTHER ACTS

Sec. 501. Section 101 of the Government Corporation Control Act (31 U.S.C. 846) is amended by striking out "Development Loan Fund;" and inserting in lieu thereof "Overseas Private Investment Corporation;".

Sec. 502. (a) Section 3343(b) of title 5 United States Code, relating to details of personnel to international organizations, as amended—

(1) by striking out "3" and inserting in lieu thereof "5"; and

(2) by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: "except that under special circumstances, where the President determines it to be in the national interest, he may extend the 5-year period for up to an additional 3 years."

(b) Section 3581(5) of such title, relating to reemployment rights of personnel who transfer to international organizations, is amended by striking out "the first 3 consecutive years after entering the employ of the international organization" and inserting in lieu thereof the following: "the first 5 consecutive years, or any extension thereof, after entering the employ of the international organization".

(c) Section 3582(a) of such title, relating to rights of personnel who transfer to international organizations, is amended—

(1) by inserting in clause (1), before the semicolon at the end thereof, a comma and the following: "except that such service shall not be considered creditable service for the purpose of any retirement system for transferring personnel, if such service forms the basis, in whole or in part, for an annuity or pension under the retirement system of the international organization"; and

(2) by striking out clause (2) and inserting in lieu thereof the following:

"(2) to retain coverage, rights, and benefits under chapters 87 and 89 of this title, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the international organization are currently deposited in the Employees' Life Insurance Fund and the Employees' Health Benefits Fund, as applicable, and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapters 87 and 89 of this title,".

(d) Section 3582(b) of such title, relating to rights of employees transferring to international organizations, is amended—

(1) by striking out, ", except a Congressional employee," in the first sentence;

(2) by striking out clause (1) "3 years" and inserting in lieu thereof "5 years, or any extension thereof,"; and

(3) by inserting at the end thereof the following new sentences: "On reemployment, he is entitled to be paid, under such regulations as the President may prescribe and from appropriations or funds of the agency from which transferred, an amount equal to the difference between the pay, allowances, post differential, and other monetary benefits paid by the international organization and the pay, allowances, post differential, and other monetary benefits that would have been paid by the agency had he been detailed to the international organization under section 3343 of this title. Such a payment shall be made to an employee who is unable to exercise his reemployment right because of disability incurred while on transfer to an international organization under this subchapter and, in the case of an employee who dies while on such a transfer or during the period after separation from the international organization in which he is properly exercising or could exercise his reemployment right, in accordance with subchapter VIII of chapter 55 of this title. This subsection does not apply to a congressional employee nor may any payment provided for in the preceding two sentences of this subsection be based on a period of employment with an international organization occurring before the first day of the first pay period which begins on or after the date of enactment of the Foreign Assistance Act of 1969."

(e) Section 3582(c) of such title, relating to rights of employees transferring to international organizations, is amended by striking out "3 years" and inserting in lieu thereof the following: "5 years, or any extension thereof,".

(f) Section 3582(d) of such title, relating to agency contributions to retirement and insurance programs for personnel who transfer to international organizations, is amended to read as follows:

"(d) During an employee's period of service with the international organization, the agency from which the employee is transferred shall make contributions for retirement and insurance purposes from the appropriations or funds of that agency so long as contributions are made by the employee."

Sec. 503. Subchapter II of chapter 53 of title 5, United States Code, is amended—

(1) by inserting at the end of section 5314, relating to level III of the Executive Schedule, the following:

"(54) President, Overseas Private Investment Corporation."

(2) by inserting at the end of section 5315, relating to level IV of the Executive Schedule, the following:

"(92) Executive Vice President, Overseas Private Investment Corporation."; and

(3) by inserting at the end of section 5316, relating to level V of the Executive Schedule, the following:

"(128) Auditor-General of the Agency for International Development.

"(129) Vice Presidents, Overseas Private Investment Corporation (3)."

dd. Foreign Assistance Act of 1968

Public Law 90-554 [H.R. 15263], 82 Stat. 960, approved October 8, 1968

NOTE.—Except for Part IV, which relates to amendments to other acts, and Part V, which relates to reappraisal of foreign assistance programs, the Foreign Assistance Act of 1968 consists of amendments to the Foreign Assistance Act of 1961, as amended.

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PART V—REAPPRAISAL OF FOREIGN ASSISTANCE PROGRAMS

DECLARATION OF POLICY

Sec. 501. The Congress declares that, in view of changing world conditions and the continued need to make United States foreign assistance programs an effective implement of United States foreign policy, there should be a comprehensive review and reorganization of all United States foreign assistance programs, including economic development and technical assistance programs, military assistance and sales programs, and programs involving contributions and payments by the United States to international lending institutions and other international organizations concerned with the development of friendly foreign countries and areas.

REAPPRAISAL BY THE PRESIDENT

Sec. 502. (a) In furtherance of the policy of this part, the President is requested to make a thorough and comprehensive reappraisal of United States foreign assistance programs, as described in section 501, and to submit to the Congress, on or before March 31, 1970, his recommendations for achieving such reforms in any reorganization of future foreign assistance programs as he determines to be necessary and appropriate in the national interest in the light of such reappraisal. The President is requested to submit to the Congress, on or before July 1, 1969, an interim report presenting any preliminary recommendations formulated by him pursuant to this section.

(b) It is the sense of the Congress that the reappraisal provided for in subsection (a) should include, but not be limited to, an analysis and consideration of proposals concerning the establishment of a Government corporation or a federally chartered private corporation designed to mobilize and facilitate the use of United States private capital and skills in less developed friendly countries and areas, including whether such corporation should be authorized to—

(1) utilize Government guarantees and funds as well as private funds;

(2) seek, develop, promote, and underwrite new investment projects;

(3) assist in transferring skills and technology to less developed friendly countries and areas; and

(4) invest in the securities of development financing institutions and assist in the formation and expansion of local capital markets.

ee. Foreign Assistance Act of 1967

Public Law 90-137 [S. 1872], 81 Stat. 445, approved November 14, 1967

NOTE.—The Foreign Assistance Act of 1967 consists of amendments to the Foreign Assistance Act of 1961, the Joint Resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization, the Act to authorize participation by the United States in the Interparliamentary Union, and the Mutual Security Act of 1954.

ff. Foreign Assistance Act of 1966

Public Law 89-583 [H.R. 15750], 80 Stat. 795, approved September 19, 1966

NOTE.—The Foreign Assistance Act of 1966 consists wholly of amendments to the Foreign Assistance Act of 1961, as amended.

gg. Foreign Assistance Act of 1965

Public Law 89-171 [H.R. 7750], 79 Stat. 653, approved September 6, 1965

NOTE.—Except for Chapter 4, which relates to an amendment to section 107 of the Agricultural Trade Development and Assistance Act of 1954, the Foreign Assistance Act of 1965 consists of amendments to the Foreign Assistance Act of 1961, as amended.

hh. Foreign Assistance Act of 1964

Partial text of Public Law 88–633 [H.R. 11380], 78 Stat. 1009, approved October 7, 1964

NOTE.—Except for the provision quoted here, the Foreign Assistance Act of 1964 consists of amendments to the Foreign Assistance Act of 1964, the Act to authorize participation by the United States in the Interparliamentary Union, and the Mutual Security Act of 1954.

* * * * * * *

PART V—RELIGIOUS PERSECUTION

Sec. 501.[1] It is the sense of the Congress that the United States deeply believes in the freedom of religion for all people and is opposed to infringement of this freedom anywhere in the world. The Congress condemns the persecution of any persons because of their religion. It is further the sense of Congress that all persons should be permitted the free exercise of religion and the pursuit of their culture.

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[1] 22 U.S.C. 2151 note.

ii. Foreign Assistance Act of 1963

Public Law 88-205 [H.R. 7885], 77 Stat. 379, approved December 16, 1963

NOTE.—The Foreign Assistance Act of 1963 consists of amendments to the Foreign Assistance Act of 1961, the Latin American Development Act, the Trade Expansion Act of 1962, the Agricultural Trade Development and Assistance Act of 1954, the Foreign Service Act of 1946, the Act to provide certain basic authority for the Department of State, and the Act to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization.

jj. Foreign Assistance Act of 1962

Public Law 87-565 [S. 2996], 76 Stat. 255, approved August 1, 1962

NOTE.—The Foreign Assistance Act of 1962 consists of amendments to the Foreign Assistance Act of 1961, the Act to provide certain basic authority for the Department of State, the Mutual Educational and Cultural Exchange Act of 1961, and the Act authorizing participation by the United States in the Interparliamentary Union.

2. Foreign Assistance Appropriations

a. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989

Public Law 100–461 [H.R. 4637], 102 Stat. 2268, approved October 1, 1988, as amended by the International Narcotics Control Act of 1988, Public Law 100–690 [H.R. 5210], 102 Stat. 4261, approved November 18, 1988

NOTE.—Amendments made to other legislation by this Act have been incorporated into their texts at the appropriate locations.

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTIONS FOR ARREARAGES

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $43,333,334, for the United States contribution to the replenishments, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $4,891,528, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89–369), $100,000,000, to remain available until expended: *Provided*, That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

ANNUAL CONTRIBUTIONS TO INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock, for the General Capital Increase, $50,000,795, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $2,292,972,540.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $951,666,666, for the United States contribution to the replenishment, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $52,392,036, to remain available until expended: *Provided,* That no such contribution may be made while the United States Director of the Asian Development Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $105,000,000, for the United States contribution to the fifth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $8,999,371, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $135,062,946.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $226,115,000, of which $2,650,334 shall be made available for the Organization of American States which amount shall be in addition to funds earmarked elsewhere under this heading for that organization: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds appropriated under this heading shall be made available only as follows: $111,000,000 for the United Nations Development Program; $60,400,000 for the United Nations Children's Fund of which $3,000,000 shall be made available to UNICEF as funds in trust for the activities of Childhope or similar organizations to help homeless or street children: *Provided further,* That the funds made available for UNICEF (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than 30 days after the date of enactment of this Act: *Provided further,* That if the previous proviso has not been complied with, none of the funds appropriated by this Act remaining unobligated or unexpended at that time shall be obligated or expended until funds appropriated under this heading are made available to UNICEF (less amounts withheld pursuant to the previous proviso); $980,000 for the World Food Program; $1,500,000 for the United Nations Capital Development Fund; $800,000 for the United Nations Voluntary Fund for the Decade for Women; $200,000 for the United Nations International Research and Training Institute for the Advancement of Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $1,960,000 for the World Meteorological Organization Voluntary Cooperation Program; $22,000,000 for the International Atomic Energy Agency; $9,500,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $650,000 for the Convention on International Trade in Endangered Species; $220,000 for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $250,000 for the UNIDO Investment Promotion Service; $7,349,666 for the Organization of American States; and $2,500,000 for the International Fund for Agricultural Development: *Provided further,* That the Department of State shall provide a report to the Committees on Appropriations, not later than June 1, 1989, analyzing the effectiveness of the United Nations Environment Program (UNEP) and detailing how UNEP has spent or intends to spend the funds appropriated under the heading. The State Department shall make this report immediately available to the Appropriations Committees: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that

Israel is not being denied its right to participate in the activities of that Agency.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1989, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $493,715,000: *Provided,* That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further,* That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further,* That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this heading shall be made available, and remain available until expended, for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations.

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $197,940,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $122,459,000: *Provided,* That of this amount $2,500,000 shall be made available for the River Blindness Program of the World Health Organization.

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $40,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided,* That of the funds made available under this heading $25,500,000 shall be provided directly to the World Health Organization for its use in financing the Global Program on AIDS, including activities implemented by the Pan American Health Organization.

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $71,000,000.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $129,541,000: *Provided,* That $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: *Provided further,* That not less than $64,770,500 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: *Provided further,* That in fiscal year 1989, the Agency for International Development shall initiate two new bilateral projects in basic primary and secondary education, at least one of which shall be initiated in countries in Sub-Saharan Africa: *Provided further,* That in each of fiscal years 1990 and 1991, such agency shall initiate three new bilateral projects in basic primary and secondary education, at least two of which in each fiscal year shall be initiated in Sub-Saharan Africa: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for the International Student Exchange Program: *Provided further,* That not less than $1,200,000 of the funds appropriated under this heading shall be made available for the Leadership Center for the Americas program.

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $120,709,000: *Provided,* That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project.

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,662,270.

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $75,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: *Provided,* That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: *Provided further,* That such local currencies which are used for this purpose shall be in lieu of funds earmarked under this heading and shall reduce the amount earmarked for assistance for micro-enterprises by an equal amount.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $500,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise made available for such purposes: *Provided,* That any of the funds which are appropriated under this heading may be used for assistance for Sub-Saharan Africa to carry out any economic development assistance activities under the Foreign Assistance Act of 1961: *Provided further,* That assistance made available under this heading shall be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant: *Provided further,* That these objectives may, in part, be achieved through the integration of women in the development process, appropriate consultation with private voluntary organizations, African and other organizations with a local perspective on the development process, and inclusion of the perspectives and participation of those affected by the provision of assistance: *Provided further,* That assistance made available under this heading shall be provided in accordance with the policies contained in section 102 of the Foreign Assistance Act of 1961: *Provided further,* That assistance made available under this heading should be provided, when consistent with the objectives of such assistance, through African, United States and other private and voluntary organizations which have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa: *Provided further,* That assistance made available under this heading should be used to help overcome shorter-term constraints to long-term development; to promote reform of sectoral economic policies to support the critical sector priorities of agricultural production and natural resources, health, voluntary family planning services, education, and income generating opportunities; to bring about appropriate sectoral restructuring of the Sub-Saharan African economies; to support reform in public administration and finances and to establish a favorable environment for individual enterprise and self-sustaining development: *Provided further,* That assisted policy reforms should take into account the need to protect vulnerable groups: *Provided further,* That assistance made available under this heading shall be used to increase agricultural production in ways which protect and restore the natural resource base, especially food production; to maintain and improve basic transportation and communication networks; to maintain and restore the renewable natural resource base in ways which increase agricultural production; to improve health conditions with special emphasis on meeting the health needs of mothers and children, including the establishment of self-sustaining primary health care systems that give priority to preventive care; to provide increased access to voluntary family planning services; to improve basic literacy and mathematics especially to those outside the formal educational system and to improve primary education; and to develop income-generating opportunities for the unemployed and underemployed in urban and rural areas: *Provided further,* That the Administrator of the Agency for International Development should target the equivalent of 10 percent of the funds appropriated under this heading for each of the following: (1) maintaining and restoring the renewable natural resource base in ways which increase agricultural production, including components of agriculture activities which are consistent with this objective, (2) health activities, and (3) voluntary family planning: *Provided further,* That local currencies generated by the sale of imports or foreign exchange by the government of a country in Sub-Saharan Africa from funds appropriated under this heading shall be deposited in a special account established by that government: *Provided further,* That these local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which are consistent with the policy directions of section 102 of the Foreign Assistance Act of 1961 and for necessary administrative requirements of the United States Government: *Provided further,* That in order to carry out the purposes of this heading, section 604(a) of the Foreign Assistance Act of 1961, and similar provisions of law, shall not apply with respect to the implementation of assistance activities consistent with the purposes of this heading: *Provided further,* That the funds made available under this heading shall be provided only on a grant basis.

SOUTHERN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $50,000,000, which shall be made available, without regard to section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961, only to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the nine member states forming that regional institution: *Provided,* That this amount shall be made available for one or more of the following sectors: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives): *Provided further,* That amounts made available under this heading shall be in addition to any amounts otherwise made available for such purposes and shall be in addition to amounts made available for Africa under the heading "Sub-Saharan Africa, Development Assistance": *Provided further,* That none of the funds appropriated under this heading may be made available for activities in Angola: *Provided further,* That none of the funds appropriated under this heading may be made available for activities in Mozambique unless the President certifies that it is in the national interest of the United States to do so.

ASSISTANCE FOR JAMAICA

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $35,000,000 shall be made available, notwithstanding any other provision of law, for relief, rehabilitation and reconstruction assistance, which amount shall be in addition to funds otherwise made available for Jamaica to carry out the provisions of part I of such Act.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, up to $5,000,000 may be made available, notwithstanding any other provision of law, for assistance for the provision of prostheses for civilians who have been injured as a result of civil strife and warfare.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $1,500,000 shall be made available for programs and activities for children who have become orphans as a result of the effects of drought, civil strife, and other natural and man-made disasters: *Provided,* That assistance under this heading shall be made available in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a higher quality of life, and sustainable development in developing countries, not less than $5,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $3,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided,* That the Agency for International Development shall seek to ensure that country strategies, projects, and programs are designed so that the percentage of women participants will be demonstrably increased.

PHILIPPINES, DEVELOPMENT ASSISTANCE

Of the aggregate of the funds appropriated by this Act to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, not less than $40,000,000 shall be made available only for the Philippines for project and sector assistance primarily in support of the Government of the Philippines' efforts to promote economic recovery and attain sustained growth through increased rural productivity in both farm and off-farm enterprises, and other activities consistent with the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961: *Provided,* That of the funds made available for the Philippines under section 103 of the Foreign Assistance Act of 1961, as amended, not less than $1,000,000 shall be made available to fund technical assistance to strengthen nonprofit private organizations and cooperatives in conjunction, where possible, with projects using local currencies generated by sale of Public Law 480 and section 416 commodities.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98–473) [1] shall be superseded by the provisions of this section.

PRIVATE SECTOR REVOLVING FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, not to exceed $9,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1989, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $12,000,000.

During fiscal year 1989, total commitments to guarantee loans shall not exceed $25,000,000 of contingent liability for loan principal.

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[1] The provisions on private and voluntary organizations in title II of Public Law 98–473, 98 Stat. 1889, set the annual funding for international activities from sources other than the United States Government at less than 25 per centum. For sec. 123(g) of the FA Act of 1961, see page 58.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $35,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $25,000,000, to remain available until expended: *Provided,* That not less the $500,000 of the funds appropriated under this heading may be made available for assistance for children who have become orphans as a result of natural disasters.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980,[2] $40,532,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $414,000,000: *Provided,* That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further,* That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1989 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977[3]), historically black colleges and universities, colleges and universities having a student body in which more than 40 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977[3]). For purposes of this proviso, economically and socially disadvantaged individuals shall be deemed to include women.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $28,500,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to three percent of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further,* That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than 240 at September 30, 1989: *Provided further,* That section 103(b) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 is amended by (1) striking out subsection (b)(3); (2) inserting, in subsection (b)(2), "or regional inspector general offices under the jurisdiction of the inspector General, Agency for International Development" after "commander"; and (3) striking out "; and" at the end of subsection (b)(2) and inserting in lieu thereof a period.

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[2] For text, see vol. II, sec D.

[3] For text, see page 463.

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1989, total commitments to guarantee loans shall not exceed $125,000,000 of contingent liability for loan principal: *Provided,* That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further,* That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961 borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1989.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,258,500,000: *Provided,* That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1988, whichever is later: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not more than $115,000,000 may be provided as a cash transfer with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That of the funds appropriated under this heading not less than $215,000,000 shall be available for Pakistan: *Provided fur-*

ther, That not less than $124,000,000 of the funds appropriated under this heading shall be available for the Philippines: *Provided further,* That not less than $2,500,000 of the funds appropriated under this heading shall be available for Thailand: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be available for Morocco: *Provided further,* That not less than $11,250,000 of the funds appropriated under this heading shall be available for Tunisia: *Provided further,* That not less than $60,000,000 of the funds appropriated under this heading shall be available for Turkey: *Provided further,* That not less than $50,000,000 of the funds appropriated under this heading shall be available for Portugal: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be available for Cyprus: *Provided further,* That of the funds appropriated under this heading up to $35,000,000 but not less than $10,000,000 shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415)[4]: *Provided further,* That of the funds appropriated under this heading $185,000,000 only shall be available for El Salvador, $80,000,000 only shall be available for Guatemala, $90,000,000 only shall be available for Costa Rica, and not less than $85,000,000 shall be available for Honduras: *Provided further,* That of the funds provided under this heading for Central American countries, not less than $5,000,000 shall be available only to develop energy self-sufficiency, to identify and utilize indigenous resources to improve economic development, and to reduce reliance on imported energy: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Jordan, of which not less than $15,000,000 is for programs in Jordan: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further,* That of the funds appropriated under this heading, not less than $85,750,000 shall be available for Sub-Saharan Africa: *Provided further,* That notwithstanding section 660 of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this heading may be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress: *Provided further,* That $20,000,000 of the funds appropriated under this heading shall be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: *Provided further,* That if funds made available under this heading are provided to a foreign country as cash transfer assistance, that country shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further,* That such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That all local currencies that may be generated with such funds provided as a cash transfer shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: *Provided further,* That at least 15 days prior to obligating any such cash transfer assistance to a foreign country under this heading, the President shall submit a notification to the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by the cash transfer assistance): *Provided further,* That not more than $5,000,000 of the funds made available under this heading may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated under this heading may be used for tied aid credits without the prior approval of the Administrator of the Agency for International Development: *Provided further,* That, except as provided by this Act, none of the funds appropriated under this heading by this Act or the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988,[5] shall be made available for tied credits in accordance with any provision of law enacted after May 19, 1988: *Provided further,* That $2,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, only for the independent Polish trade union "Solidarity" of which $1,000,000 is to support its Social Fund project, and $1,000,000 is to support Solidarity through the AFL-CIO's Free Trade Union Institute to promote democratic activities in Poland: *Provided further,* That not to exceed $2,000,000 of the funds appropriated under this heading shall be made available notwithstanding any other provision of law to the National Endowment for Democracy for the promotion of democracy in Nicaragua: *Provided further,* That these funds are to be administered consistent with the Agreement between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua ("Sapoa Agreement") and the Guatemala Peace Accords of August 7, 1987: *Provided further,* That such assistance (1) shall be provided to internal groups that have renounced violence and support a negotiated settlement to the conflict in Nicaragua, including independent elements of the press, independent labor unions, independent business groups, and independent human rights groups, and (2) may not be provided to any group that is affiliated with or supportive of any armed opposition group: *Provided further,* That the manner in which these funds are used shall not be inconsistent with the Sapoa Agreement, as its terms are applied and monitored for acceptability by the Verification Commission established by that Agreement: *Provided further,* That $1,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for the provision of medical supplies and hospital equipment for Poland through private and voluntary organizations, including the expenses of purchasing, transporting, and distributing such supplies and equipment: *Provided further,* That funds made available under this heading shall remain available until September 30, 1990.

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[4] For text, see page 327.

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[5] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Sec. 101(e) of the Continuing Appropriations Act for 1988, Public Law 100-202, 101 Stat. 1329-142), made Economic Support Fund appropriations available for two years, through September 30, 1989. For text, see page 576.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533,[6] and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $8,000,000: *Provided,* That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision: *Provided further,* That section 505(a)(1) of the International Security and Development Cooperation Act of 1980 is amended by inserting "(including public international organizations)" after "public group".

INTER-AMERICAN FOUNDATION

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969,[7] and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $16,600,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

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[6] For text, see page 426.

[7] For text, see page 499.

During the fiscal year 1989 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000.

During the fiscal year 1989, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal.

Except as provided in this Act, no provision of any other Act not enacted into law by May 19, 1988, shall be construed to require the exercise of authority to provide direct loans or to make commitments to guarantee loans contrary to the limitations contained under this heading.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612),[8] $153,500,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $101,000,000: *Provided,* That not less than [9] $7,000,000 of the funds appropriated under this heading shall be available for Latin America regional programs: *Provided further,* That in carrying out the provisions of section 481, increased emphasis should be placed on (1) further intensifying United States efforts in the eradication and interdiction of illicit narcotics, and (2) seeking international cooperation on narcotics enforcement matters such as in the areas of extradition treaties, mutual legal assistance to combat money laundering, sharing of evidence, and other initiatives for cooperative narcotics enforcement efforts.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States

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[8] For text, see page 1104.

[9] Sec. 4302(d) of Public Law 100–690 struck out "$15,000,000 of the funds appropriated under this heading shall be made available for narcotics interdiction and control programs for Bolivia: *Provided further,* That in addition to amounts made available pursuant to the previous proviso, not less than" at this point.

Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $361,950,000: *Provided,* That not less than $28,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further,* That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That of the funds appropriated under this heading not less than $140,000,000 shall be made available for the refugee admissions program, including AIDS screening, of which (1) not less than $46,000,000 shall be made available for first asylum refugees from East Asia and, (2) not less than $15,000,000 shall be available for costs of the expedited resettlement of Vietnamese Amerasians and their family members eligible for refugee benefits: *Provided further,* That of the funds appropriated under this heading not less than $20,000,000 shall be made available to the United Nations High Commissioner for Refugees for assistance for Afghan refugees: *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for a Thailand-Cambodia border refugee protection program: *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for the anti-piracy program, none of which funds may be used by any government to deny asylum to individuals seeking asylum: *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for a Thailand border refugee education program: *Provided further,* That the provisions of subsection (c) of section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in section 101(e) of Public Law 100-202,[10] shall apply to an individual who (1) departs from Vietnam after the date of the enactment of this Act and before the end of the two-year period described in subsection (a)(1)(B) of such section, and (2) is described in subsection (b) of such section, but who is issued an immigrant visa under section 201(b) or 203(a) of the Immigration and Nationality Act (rather than under subsection (a) of such section), or would be described in subsection (b) of such section if such section also applied to principal aliens who were citizens of the United States (rather than merely to aliens): *Provided further,* That not more than $8,000,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended

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[10] For text, see page 584.

(22 U.S.C. 260(c)),[11] $50,000,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading not less than $23,000,000 shall be made available only for Afghan refugees to be administered by the cross-border humanitarian assistance program: *Provided further,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 [11] which would limit the amount of funds which could be appropriated for this purpose: *Provided further,* That funds appropriated under this heading shall be available for obligation and expenditure for Afghan refugees only after funds appropriated or otherwise earmarked for assistance for the Afghan people under section 537 of this Act and under the heading "Migration and Refugee Assistance" have been obligated.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $9,840,000.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE [12]

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $467,000,000: *Provided,* That of the funds appropriated under this heading not less than $125,000,000 shall be made available only for the Philippines: *Provided further,* That not less than $9,000,000 shall be available for non-lethal military assistance for Guatemala, of which not less than $2,000,000 shall be available only for civic action programs and for the construction of military barracks: *Provided further,* That not less than $15,000,000 shall be available for Kenya: *Provided further,* That if any of the funds appropriated under this heading are made available for Turkey, then not less than $30,000,000 of such funds shall be available for Greece: *Provided further,* That of the funds appropriated under this heading not more than $40,000,000 shall be used for general costs of administering the Military Assistance program: *Provided further,* That any material assistance provided with funds appropriated under this heading for Haiti shall be limited to non-lethal items such as transportation and communications equipment and uniforms: *Provided further,* That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the proviso under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, prohibiting the use of military assistance funds after September 30, 1989, for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961, is repealed: [12] *Provided further,* That any military assistance funds appropriated by this Act that have not been committed for the payment of any sale under the Arms Export Control Act during the period ending at the end of the second fiscal year after the fiscal year for which such funds were appropriated shall not be committed for such purpose thereafter unless the Committees on Appropriations are given a fifteen-day prior notification of the amount of funds involved, the reasons why no commitment was made thereof, and the proposed sales to be financed with such funds: *Provided further,* That military assistance funds appropriated by this or any other Act that have been expended into the account designated in section 503(a)(3) of the Foreign Assistance Act of 1961 to finance particular sales shall be available, subject to all applicable reprogramming provisions, to finance other sales in the event of sales cancellations, reductions, excess funds at case closeout, or other reasons relating to the implementation of sales programs: *Provided further,* That the Committees on Appropriations shall be furnished on March 1 of each year a complete report of the status of military assistance funds appropriated by this or any future Act committed for the payment of any sales under the Arms Export Control Act as regards the individual sale, item description, and estimated sales price.

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[11] For text, see vol. II, sec. D.

[12] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Sec. 101(e) of the Continuing Appropriations Act for 1988, Public Law 100-202, 101 Stat. 1329-147), made Military Assistance appropriations available for three years, through September 30, 1990. For text, see page 579.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,400,000: *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act,[13] $3,862,750,000: *Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, not less than $1,300,000,000 shall be available for grants only for Egypt, not less than $230,000,000 shall be available for grants only for Pakistan, not less than $52,000,000 shall be available for grants only for Morocco, and not less than $30,000,000 shall be available for grants only for Tunisia: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That grants shall be provided with the funds appropriated by this paragraph notwithstanding any requirement in section 23 of the Arms Export Control Act [13] for repayment and shall be implemented by grant documents which do not include a requirement to repay the United States Government with respect to any funds provided under this paragraph.

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[13] For text, see page 273.

For expenses necessary for loans to enable the President to carry out the provisions of section 23 [13] of the Arms Export Control Act, $410,000.000: *Provided,* That any funds made available by this paragraph except as otherwise specified, may be made available at concessional rates of interest: *Provided further,* That the concessional rate of interest on foreign military credit sales loans shall be not less than 5 percent per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further,* That during fiscal year 1989, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $410,000,000.

Of the funds appropriated under both the "Military Assistance" heading and this heading $500,000,000 only shall be available for Turkey and $350,000,000 only shall be available for Greece: *Provided,* That funds previously obligated for the Philippines under the heading "Foreign Military Credit Sales" but uncommitted on the date of enactment of this Act shall be used only to finance sales made under the Arms Export Control Act: *Provided further,* That of the funds appropriated under this heading, not less than $409,750,000 shall be available only for use in financing the procurement of defense articles, defense services, or design and construction services that are sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That any reference in title V of this Act to "Foreign Military Credit Sales" shall be deemed to be a reference to grants and loans pursuant to the Foreign Military Finance Program under this heading.

FOREIGN MILITARY SALES DEBT REFORM

Funds made available by the Foreign Operations, Export Financing and Related Programs, Appropriations Act, 1988,[14] for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading "Foreign Military Sales Debt Reform", subsection (b) "Interest Rate Reduction" shall be available, subject to the same conditions and provisos, only after October 1, 1989.

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[14] For text, see page 273.

GUARANTY RESERVE FUND

If during fiscal year 1989 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) [15] or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading "Foreign Military Sales Debt Reform",[14] the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA.[15] Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $236,865,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act [16] for the purposes of the Special Defense Acquisition Fund during fiscal year 1989, to remain available for obligation until September 30, 1991: *Provided*, That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

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[15] For text, see page 274.

[16] For text, see page 310.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $31,689,000: *Provided,* That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1989: *Provided further,* That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1989 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $695,000,000: *Provided,* That at the discretion of the Chairman of the Export-Import Bank, up to $110,000,000 of that amount may be available, subject to the regular notification procedures of the Committees on Appropriations of the Senate and House of Representatives, as tied-aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: *Provided further,* That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied-aid credits which are made available from time to time, but not to exceed $110,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That during the fiscal year 1989, total commitments to guarantee loans shall not exceed $10,200,000,000 of contingent liability for loan principal: *Provided further,* That the direct loan and guaranty authority provided under this heading shall remain available until September 30, 1990.[17]

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[17] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Sec. 101(e) of the Continuing Appropriations Act for 1988, Public Law 100-202, 101 Stat. 1329-152), made Export-Import Bank administrative expense funds available for two years, through September 30, 1989. For text, see page 582.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $20,390,000 (to be computed on an accrual basis) shall be available during fiscal year 1989 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $25,000,000: *Provided,* That except as provided in this or any other Act appropriating funds for foreign operations, export financing, and related programs, no provision of law enacted after May 19, 1988, may transfer funds to, or otherwise make available funds for, the Trade and Development Program: *Provided,* That notwithstanding any other provision of law, any funds contained in any previously enacted Act appropriating funds for foreign operations, export financing, and related programs which are transferred or otherwise made available to carry out the purposes of section 661 of the Foreign Assistance Act of 1961 may be deobligated and thereafter reobligated for the purposes for which such funds were originally appropriated: *Provided further,* That of the amounts appropriated under this heading up to $5,000,000 may be used for joint financing with individual State trade promotion organizations of activities directed at the expansion of trade with developing and middle income countries, including such activities as trade fairs, seminars, targeting and feasibility studies, and activities directed at enhancing the use of exports from the United States in bilateral and multilateral projects.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1989, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $200,000,000 of contingent liability for loan principal.

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501.[18] None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502.[19] Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503.[20] None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504.[21] None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505.[22] None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

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[18] First enacted as sec. 103 of the Mutual Security Appropriations Act of 1960.

[19] First enacted as sec. 108 of the Mutual Security Appropriations Act of 1955.

[20] First enacted as sec. 107 of the Mutual Security Appropriations Act of 1959.

[21] First enacted as sec. 110 of the Foreign Assistance Appropriations Act, 1963.

[22] First enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1964.

PROHIBITION OF BILATERAL FUNDING FOR MULTILATERAL PROGRAMS

SEC. 506.[23] None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507.[24] Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508.[25] Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509.[26] Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the total funds made available by this Act under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

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[23] First enacted as sec. 121 of the Foreign Assistance Appropriations Act, 1970.

[24] First enacted as sec. 113 of the Foreign Assistance Appropriations Act, 1976.

[25] First enacted as sec. 114 of the Foreign Assistance Appropriations Act, 1976.

[26] First enacted as sec. 115 of the Foreign Assistance Appropriations Act, 1976. The second through fifth proviso clauses were first enacted as sec. 526 of H.R. 4473, as made applicable to the Continuing Appropriations Act, 1981. The last proviso clause was first enacted in the Foreign Assistance Appropriations Act, 1986.

PROHIBITION ON FINANCING NUCLEAR GOODS

Sec. 510.[27] None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

Sec. 511.[28] Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

Sec. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria.

MILITARY COUPS

Sec. 513.[29] None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

Sec. 514.[30] None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated.[31]

DEOBLIGATION/REOBLIGATION AUTHORITY

Sec. 515.[32] Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1989, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds: *Provided further,* That the authority of this section may be used to continue the availability of any of the funds deobligated under any of such headings in order to provide relief, rehabilitation, and reconstruction assistance for Jamaica and Bangladesh: *Provided further,* That any such funds reobligated for Jamaica and Bangladesh shall be made available in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961: *Provided further,* That the authority of this section may not be exercised to deobligate and reobligate funds previously obligated for the "Economic Support Fund".

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[27] First enacted as sec. 112 of the Foreign Assistance Appropriations Act, 1978.

[28] First enacted as sec. 113 of the Foreign Assistance Appropriations Act, 1978.

[29] First enacted as sec. 513 of the Foreign Assistance Appropriations Act, 1986. In Presidential Determination No. 89-9 of December 22, 1988, 54 F.R. 2081, the President determined "* * * that it is important to the security interests of the United State to authorize the disbursement of Fiscal Year 1986 Economic Support and Development Assistance Health Funds for Fiji allocated before the May 14, 1987 military coup and to reinstate Fiji's eligibility for future allocations of economic assistance to Fiji, notwithstanding Section 513 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1989 (and successor provisions of substantially similar effect) * * *."

[30] First enacted as sec. 115 of the Foreign Assistance Appropriations Act, 1978.

[31] Sec. 589 of this Act struck out "without the prior written approval of the Committees on Appropriations" at this point.

[32] Similar language was first enacted as sec. 403 of the Supplemental Appropriations Act, 1983.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516.[33] No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517.[34] No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518.[35] No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

SEC. 519.[36] None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

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[33] First enacted as sec. 102 of the Mutual Security Appropriations Act, 1958. See sec. 109 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204), vol. II, sec. D, for related language.

[34] First enacted as sec. 403 of the Foreign Assistance Appropriations Act, 1967.

[35] Similar language was first enacted as sec. 506 of the Foreign Assistance Appropriations Act, 1976.

[36] First enacted as sec. 506 of the Foreign Assistance Appropriations Act, 1977.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 520.[37] None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 521.[38] None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SURPLUS COMMODITIES

SEC. 522.[39] The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to

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[37] Similar language was first enacted as sec. 520 of H.R. 4473, as made applicable to the Continuing Appropriations Act, 1981.

[38] First enacted as sec. 608 of the Foreign Assistance Appropriations Act, 1979.

[39] 22 U.S.C. 262h.

United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 523.[40] For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, environment, and energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "Southern Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Military Assistance", "Foreign Military Credit Sales", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961 or of funds appropriated for the purposes of section 23 of the Arms Export Control Act[41] for the provision of major defense equipment, other than conventional ammunition, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.

CONSULTING SERVICES

SEC. 524.[42] The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

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[40] First enacted without the proviso clauses as sec. 114 of the Foreign Assistance Appropriations Act, 1974.

[41] For text, see page 273.

[42] First enacted as sec. 524 of the Foreign Assistance Appropriations Act, 1982.

PROHIBITION ON ABORTION LOBBYING

SEC. 525.[43] None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 526.[44] Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

UNITED NATIONS VOTING RECORD

SEC. 527.[45] (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

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[43] First enacted as sec. 525 of the Foreign Assistance Appropriations Act, 1982.

[44] Similar language was first enacted as sec. 154 of the Further Continuing Appropriations Act, 1983. References to Libya and Iran were added by the Foreign Assistance Appropriations Act, 1985. Language regarding Communist countries was added by the Foreign Assistance Appropriations Act, 1986.

[45] 22 U.S.C. 2414a.

(c) The report required by subsection (a) of this section shall continue to include the same type of information as is contained in the "Report to Congress on Voting Practices in the United Nations" which was submitted pursuant to Public Law 99-190 [46] and Public Law 98-164 [47] on June 6, 1986 and shall be in a format to be developed in consultation with the appropriate congressional committees: *Provided,* That any such changes are approved by legislation.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 528.[48] Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 529.[49] In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83),[50] no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUNDS FOR ISRAEL

SEC. 530.[51] The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

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[46] Foreign Assistance and Related Programs Appropriations Act, 1986, sec. 529 (99 Stat. 1307).

[47] Department of State Authorization Act for Fiscal Years 1984 and 1985, sec. 117 (97 Stat. 1022).

[48] First enacted as sec. 531 of the Foreign Assistance Appropriations Act, 1985.

[49] Similar language was first enacted as sec. 535 of the Foreign Assistance Appropriations Act, 1985.

[50] For text, see page 388.

[51] First enacted as sec. 534 of the Foreign Assistance Appropriations Act, 1985.

CEILINGS AND EARMARKS

SEC. 531.[52] Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

NOTIFICATION REQUIREMENT ON FUNDING FOR LEBANON

SEC. 532.[53] None of the funds appropriated or otherwise made available pursuant to this Act for the "Economic Support Fund" or for "Foreign Military Credit Sales" shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 533.[54] (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act [55] for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least 15 days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

GUATEMALA—RESETTLEMENT PROGRAM

SEC. 534.[56] Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

ENVIRONMENTAL CONCERNS

SEC. 535.[57] (a) It is the policy of the United States that sustainable economic growth must be predicated on sustainable use of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks (MDB's) to—

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[52] First enacted as sec. 538 of the Foreign Assistance Appropriations Act, 1985.

[53] First enacted as sec. 536 of the Foreign Assistance Appropriations Act, 1986.

[54] Similar language was first enacted as sec. 538 of the Foreign Assistance Appropriations Act, 1986.

[55] For text, see page 298.

[56] Similar language was first enacted as sec. 539 of the Foreign Assistance Appropriations Act, 1986.

[57] 22 U.S.C. 2621.

(1) promote the adoption of internal guidelines requiring the use of least-cost planning techniques in evaluating proposed energy loans, and consider refusal to support power generation, utilization or energy sector loans unless cost-effective conservation measures have been fully evaluated and considered;

(2) encourage each MDB to offer technical assistance to borrower nations in preparing national energy plans. Special emphasis shall be given to least-cost analysis in making decisions on energy use and development, and such analyses shall take into account all demand-side as well as supply-side options;

(3) promote expansion of MDB expertise in the areas of energy conservation and renewable energy sources;

(4) promote the adoption of lending strategies which place increased emphasis on energy conservation and efficiency as opposed to merely increasing generating capacity;

(5) promote adoption of policies which minimize emissions of greenhouse gases;

(6) promote the adoption of lending strategies that place increased emphasis on energy efficient transportation programs. Such strategies shall consider alternatives to conventional mechanized transport such as nonmotorized vehicles, public transport and increased energy and cost efficiency of transportation systems; and

(7) promote the use of existing and the development of new mechanisms to promote conservation of biological diversity. Existing resources to be consulted shall include but not be limited to Conservation Data Centers.

(b) The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall conduct bilateral and multilateral discussions with other members of the MDB's to further strengthen the environmental performance of each bank. These discussions shall include, but not be limited to organizational, administrative and procedural arrangements to remove impediments to the efficient and effective management of assistance programs necessary to protect and ensure the sustainable use of natural resources and to carry out such assistance programs in consultation with affected local communities.

(c) The Administrator of the Agency for International Development shall—

(1) in the submission of future "early warning system" reports, as required by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, make use of resources that promote the conservation of biological diversity, such as Conservation Data Centers;

(2) submit a report to the Committees on Appropriations, by January 15, 1989, on the Agency's activities and practices which encourage or discourage the use of renewable energy technologies overseas, and on ways to correct or refocus those efforts. This report shall include but is not limited to Agency activities which could be directed to develop a stronger interface with the private sector through the establishment of a United States Renewable Energy Industry Advisory Council;

(3) issue guidance to all Agency missions stating that renewable energy resources and conservation are to be the centerpiece of its energy efforts, and meeting energy needs through these means shall be discussed in every Country Development Strategy Statement; and

(4) take steps to implement recommendations set forth by a report of the Committee on Health and Environment on opportunities for the Agency to assist developing countries in the proper use of agricultural and industrial chemicals.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

Sec. 536.[58] None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

Sec. 537.[59] Not less than $45,000,000 of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

Sec. 538.[60] None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the

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[58] First enacted as sec. 541 of the Foreign Assistance Appropriations Act, 1986.

[59] Similar language was first enacted as sec. 542 of the Foreign Assistance Appropriations Act, 1986.

[60] Similar language was first enacted as sec. 546 of the Foreign Assistance Appropriations Act, 1986.

Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

SEC. 539.[61] Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.

REFUGEE RESETTLEMENT

SEC. 540.[62] It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Credit Sales", "Military Assistance", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

IMMUNIZATIONS FOR CHILDREN

SEC. 541.[63] (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annual-

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[61] First enacted as sec. 547 of the Foreign Assistance Appropriations Act, 1986.
[62] First enacted as sec. 548 of the Foreign Assistance Appropriations Act, 1986.
[63] First enacted as sec. 550 of the Foreign Assistance Appropriations Act, 1986.

ly by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 542.[64] None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SUDAN, SOMALIA, BURUNDI, LIBERIA, UGANDA, AND JAMAICA NOTIFICATION REQUIREMENTS

SEC. 543. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Burundi, Liberia, Uganda, Jamaica or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 544.[65] For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund; Military Assistance; and Foreign Military Credit Sales, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 545. Of the funds made available by this Act and appropriated for the "Child Survival Fund" and "Health, Development Assistance", up to $6,000,000 may be used to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full cost of employees detailed or assigned, as the case may be, to the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That personnel which are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

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[64] First enacted as sec. 548 of the Foreign Assistance Appropriations Act, 1987.

[65] Similar language was first enacted as sec. 550 of the Foreign Assistance Appropriations Act, 1987.

INTER-AMERICAN DEVELOPMENT BANK—COORDINATION OF PROJECTS

SEC. 546.[66] The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to work with the representatives, and with the ministries from which they receive their instructions, of other donor nations to the Inter-American Development Bank, to develop a coordinated economic development program for the assistance activities of the Bank. Such program should be developed in cooperation with the Department of State and the Agency for International Development to ensure that the bilateral economic assistance programs of the United States are effectively coordinated with the activities of the Inter-American Development Bank.

CHILE—LOANS FROM MULTILATERAL DEVELOPMENT INSTITUTIONS

SEC. 547.[67] (a) It is the sense of Congress that pursuant to section 701 of the International Financial Institutions Act of 1977,[68] the United States Government should oppose all loans to Chile from international financial institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) Except for programs under section 534(b) (4) or (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society, assistance for which programs may be made available notwithstanding section 726 of the International Security and Development Cooperation Act of 1981,[69] none of the funds made available by this Act for the "Economic Support Fund" or for title III shall be obligated or expended for Chile.

COMMODITY COMPETITION

SEC. 548.[70] None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of

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[66] First enacted as sec. 550 of the Foreign Assistance Appropriations Act, 1988.

[67] Similar language was first enacted as sec. 557 of the Foreign Assistance Appropriations Act, 1987.

[68] For text, see vol. III, sec. I.

[69] For text, see page 416.

[70] First enacted as sec. 557 of the Foreign Assistance Appropriations Act, 1987.

1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this section shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

PROHIBITION OF FUNDING RELATED TO COMPETITION WITH UNITED STATES EXPORTS

SEC. 549.[71] None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, 19 U.S.C. 1202, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 550.[72] None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.[73]

ASSISTANCE FOR LIBERIA

SEC. 551. (a) Funds appropriated by this Act under the heading "Military Assistance" or "Economic Support Fund" may be made available for assistance for Liberia only if the Secretary of State certifies to the Congress that the Government of Liberia—

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[71] First enacted as sec. 559 of the Foreign Assistance Appropriations Act, 1987.

[72] A similar requirement concerning indirect assistance was first enacted as sec. 560 of the Foreign Assistance Appropriations Act, 1987.

[73] Presidential Determination No. 88-8 of January 29, 1988, 53 F.R. 3847, certified that the withholding of funds to multilateral development banks and other international organizations is contrary to the national interest.

(1) has taken significant steps to: reduce extra-budgetary expenditures; reduce borrowing from any source (whether local or foreign) in anticipation of future tax receipts, profit sharing, maritime revenues, or other revenues; reduce the use of offshore funds for the financing of domestic expenditures; and reduce the extent to which public expenditures exceed allocations;

(2) has ceased diverting and misusing United States assistance, and has paid all amounts owed to the local currency accounts (established pursuant to the Agricultural Trade Development and Assistance Act of 1954) for the shortfalls in its payments for the fiscal years 1983 and 1984; and

(3) is making significant progress toward—

(A) permitting all political parties to freely organize, assemble, and disseminate their views as provided for by the Liberian constitution;

(B) respecting constitutional guarantees of freedom of the press and freedom of speech;

(C) maintaining the independence of the legislative branch in accordance with the Liberian constitution;

(D) establishing and maintaining an independent judiciary;

(E) providing full access to all political prisoners by internationally respected human rights organizations for the purpose of investigating human rights abuses;

(F) improving the human rights situation; and

(G) satisfying Liberia's undisputed debts to United States citizens.

(b) None of the funds appropriated in this Act shall be obligated or expended for Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

(c) The requirements of this section are in addition to any other statutory requirements applicable to assistance for Liberia.

RECIPROCAL LEASING

SEC. 552. Section 61(a) of the Arms Export Control Act is amended by striking out "1988" and inserting in lieu thereof "1989".

LIMITATION ON DEFENSE EQUIPMENT DRAWDOWN

SEC. 553.[74] Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided,* That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

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[74] First enacted as sec. 558 of the Foreign Assistance Appropriations Act, 1988.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 554.[75] Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 555. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided,* That section 514 of the Foreign Assistance Act of 1961 is amended by amending subsection (b)(2) to read as follows: "(2) The value of such additions to stockpiles in foreign countries shall not exceed $77,000,000 for fiscal year 1989.": *Provided further,* That the amendment in the nature of a substitute to the text of H.R. 4645,[76] as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, is hereby enacted into law: *Provided further,* That title I of H.R. 5263 [77] as passed by the House of Representatives on September 20, 1988, is hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of H.R. 5263 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further,* That notwithstanding any other provision of this Act, titles I and III of S. 2757 [78] as reported by the Senate Committee on Foreign Relations on September 7, 1988, are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further,* That section 901(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

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[75] Similar language was first enacted as sec. 559 of the Foreign Assistance Appropriations Act, 1988.

[76] H.R. 4645 provided for the participation by the United States in a capital stock increase of the International Bank for Reconstruction and Development and a replenishment of the African Development Fund, and for other purposes. For text, see vol. III, sec. I.

[77] Title I of H.R. 5263 amended, in large part, the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation. For text, see the FA Act of 1961, sec. 231 through sec. 240B, page 74. Sec. 109 of H.R. 5263 addressed OPIC's support of U.S. small and minority-owned businesses; for text see page 319. Sec. 111 addressed OPIC programs in Haiti; for text, see page 319.

[78] Title I of S. 2757 amended, in large part, the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation. For text, see the FA Act of 1961, sec. 231 through sec. 240B, page 74. Sec. 109 of S. 2757 addressed OPIC's support of U.S. small and minority-owned businesses; for text see page 319. Sec. 111 of S. 2757 addressed OPIC programs in Haiti; for text, see page 319. Title III of S. 2757 addressed conditions and funding of certain *au pair* programs authorized by the United States Information Agency. For text, see vol. II, sec. E.

"(a) In General.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.": *Provided further,* That subsection (b) of section 901 of such Act is amended—

(1) by inserting "to deny adjustment of status of," after "deny issuance of a visa to,";

(2) by inserting in paragraph (1) before the semicolon, ", unless such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an immigrant.":

Provided further, That subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

"(d) Effective Period.—Subsection (a) shall only apply to—

"(1) applications for nonimmigrant visas submitted before January 1, 1991;

"(2) admissions sought before March 1, 1991;

"(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.":

Provided further, That the amendment made in the preceding sentence shall not require the deportation of aliens admitted for permanent resident status under section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this Act: *Provided further,* That title III of S. 2757 [78] shall be in effect for fiscal years 1989 and 1990: *Provided further,* That the Comptroller General of the United States shall examine the use of nonimmigrant visas under section 101(a)(15)(J) of the Immigration and Nationality Act for current programs of educational and cultural exchange and shall, not later than 30 days before the end of fiscal year 1989, submit to the Committees on the Judiciary of the Senate and House of Representatives, a report on whether the participants in programs of cultural exchange receiving visas under that section are performing activities consistent with the congressional intent for the implementation of that section: *Provided further,* That notwithstanding section 208 of the United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 [79] and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "Land of Enchantment"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master

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[79] For text, see vol. II, sec. E.

copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States. Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

NOTIFICATION CONCERNING EL SALVADOR

SEC. 556.[80] (a) The Congress expects that—

(1) the Government of El Salvador and the armed opposition forces and their political representatives will be willing to pursue a dialogue for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections;

(2) the elected civilian government will be in control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C-111-03-984 (relating to aerial fire support);

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in ending the activities of the death squads;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in establishing an effective judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in implementing the land reform program.

(b) REPORTS.—On April 1, 1989, and September 30, 1989, the President shall report to the Speaker of the House of Representatives, the Committees on Appropriations and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (a) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall specify the status of all cases presented to the Salvadoran courts involving human rights violations against civilians by members of the Salvadoran security forces, including military officers and other military personnel and civil patrolmen.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 557.[81] The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided,* That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements.

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[80] Similar language was first enacted as sec. 561 of the Foreign Assistance Appropriations Act, 1988.

[81] 22 U.S.C. 2395a note.

MIDDLE EAST REGIONAL COOPERATION

SEC. 558. Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 [82] shall continue to be funded at a level of not less than $5,000,000 from funds appropriated under the heading "Economic Support Fund": *Provided*, That the provisos contained in section 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, are hereby repealed.[83]

ASSISTANCE FOR THE PEOPLE OF LEBANON

SEC. 559.[84] The Congress recognizes that the people of Lebanon have suffered greatly during much of the past two decades from the effects of natural disasters and civil strife. The Congress further recognizes that assistance provided through nongovernmental organizations has had a significant impact in mitigating the adverse consequences of these unfortunate events on the Lebanese people. Therefore, up to $5,000,000 of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be made available to provide assistance for the people of Lebanon. Such assistance shall be made available only through the United Nations Children's Fund, indigenous nongovernmental organizations, or international organizations, and shall be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 560.[85] It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress, that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 561.[86] None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than

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[82] For text, see page 338.

[83] Sec. 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, provided the following:

"That of this amount not less than $500,000 shall be made available for scholarships for support of Israeli students studying in institutions of higher education in Arab countries and not less than $500,000 shall be made available for scholarships for support of Arab students studying in institutions of higher education in Israel: *Provided further*, That such scholarships shall be called 'Arab-Israeli Peace Scholarships'."

[84] First enacted as sec. 565 of the Foreign Assistance Appropriations Act, 1988.

[85] First enacted as sec. 566 of the Foreign Assistance Appropriations Act, 1988.

[86] Similar language was first enacted as sec. 567 of the Foreign Assistance Appropriations Act, 1988.

(1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) countries for which repayment, in whole or in part, of foreign military credits provided in fiscal year 1988 is forgiven.

EARMARKS

SEC. 562. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or,-with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this section shall be made available under the same terms and conditions as originally provided.

HAITI

SEC. 563.[87] (a) SUSPENSION OF ASSISTANCE.—During fiscal year 1989, none of the funds made available by this Act or by any other Act or joint resolution may be obligated or expended to provide United States assistance (including any such assistance appropriated and previously obligated) for Haiti (other than the assistance described in subsection (b) of this section) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(b) EXCEPTIONS.—The term "United States assistance" does not include—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies;

(2) assistance which involves the donations of food or medicine;

(3) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961);

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[87] Similar language was first enacted as sec. 569 of the Foreign Assistance Appropriations Act, 1988.

(4) assistance for refugees;

(5) assistance under the Inter-American Foundation Act;

(6) assistance necessary for the continued financing of education for Haitians in the United States;

(7) assistance provided in order to enable the continuation of migrant and narcotics interdiction operations;

(8) activities under the National Endowment for Democracy Act;

(9) assistance under title IV, chapter 2 of part I of the Foreign Assistance Act of 1961 (relating to the Overseas Private Investment Corporation); or

(10) assistance under the Peace Corps Act.

(c) OTHER SANCTIONS.—It is the sense of the Congress that, in order to further encourage the Government of Haiti to adhere to the constitutionally mandated transition to democracy, the President should—

(1) suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act; and

(2) seek international cooperation to encourage such adherence by the Government of Haiti through the imposition of an international arms embargo and comprehensive trade and financial sanctions.

(d) EFFECT OF FISCAL YEAR 1988 PROGRAMS.—Assistance may be provided for Haiti during fiscal year 1988 under title IV, chapter 2 of part I of the Foreign Assistance Act of 1961, or under the Peace Corps Act notwithstanding section 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.

ASSISTANCE FOR PANAMA

SEC. 564. [88] (a) Unless the President certifies to Congress that—

(1) the Government of Panama has demonstrated substantial progress in assuring civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from non-military activities and institutions;

(2) an impartial investigation into allegations of illegal actions by members of the Panama Defense Force is being conducted;

(3) a satisfactory agreement has been reached between the governing authorities and representatives of the opposition forces on conditions for free and fair elections; and

(4) freedom of the press and other constitutional guarantees, including due process of law, are being restored to the Panamanian people;

then no United States assistance (including any such assistance appropriated and previously obligated) shall be obligated or expended for programs, projects, or activities which assist or lend support for the Noriega regime, or ministries of government under the control of the Noreiga regime, or any successor regime that does not meet the criteria specified in subsection (a) of this section in this fiscal year and any fiscal year thereafter, and none of the funds appropriated or otherwise made available in this Act, or any other Act, shall be used to finance any participation of the United States in joint military exercises conducted in Panama during the fiscal year 1989.

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[88] 22 U.S.C. 2151 note. See also sec. 1302 and 1303 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100–456, 102 Stat. 2060), page 812.

(b) It is the sense of the Congress that if the conditions described in paragraphs (1) through (4) of subsection (a) have been certified as having been met, then not only will United States assistance be restored, but increased levels of such assistance should be considered for Panama.

(C) For purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guarantees under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities;

(5) financing under the Export-Import Bank Act of 1945; and

(6) assistance provided by the Central Intelligence Agency or assistance provided by any other entity or component of the United States Government if such assistance is carried out in connection with, or for purposes of conducting, intelligence or intelligence-related activities except that this shall not include activities undertaken solely to collect necessary intelligence;

except that the term "United States assistance" does not include (A) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961), (D) assistance for refugees, (E) assistance under the Inter-American Foundation Act, (F) assistance necessary for the continued financing of education for Panamanians in the United States, or (G) assistance made available for termination costs arising from the requirements of this section.

(d) The Secretary of the Treasury shall instruct the United States Executive Directors to the International Financial Institutions (the International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank) to vote against any loan to Panama, unless the President has certified in advance that the conditions set forth in subsection (a) of this section have been met.

ELIMINATION OF THE SUGAR QUOTA ALLOCATION OF PANAMA

SEC. 565.[89] (a) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of Panama may be imported into the United States after the date of enactment of this Act during any period for which a limitation is imposed by authorities provided under any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States: *Provided,* That such products may be imported after the beginning of the last week of any quota year if the President certifies that for the entire duration of the quota year, freedom of the press and other constitutional guarantees, including due process of law, have been restored to the Panamanian people.

(b) REALLOCATION OF QUOTA AMOUNTS.—For any quota year for which the President does not certify for the entire duration of the quota year, freedom of the press and all other constitutional guarantees, including due process of law, have been restored to the Panamanian people, no later than the last week of such quota year, the United States Trade Representative shall reallocate among other foreign countries the quantity of sugar, sirup, and molasses products of Panama that could have been imported into the United States before the date of enactment of this Act under any limitation imposed by other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States during any period.

(c) CERTIFICATION.—The provisions of subsections (a) and (b), and the amendments made by subsection (c) of section 571 of the Foreign Operations, Export Financing, and Related Programs, Appropriations Act, 1988,[90] shall cease to apply if the President certifies to Congress pursuant to section 564(a) of this Act.

STINGERS IN THE PERSIAN GULF REGION

SEC. 566.[91] (a) PROHIBITION.—Except as provided in subsection (b), no Stinger antiaircraft missiles may be provided, directly or indirectly, by sale, lease, grant or otherwise, during fiscal year 1989 to any country in the Persian Gulf region.

(b) EXCEPTION.—Notwithstanding the prohibition in subsection (a), such missiles may be provided to Bahrain if the President certifies to Congress that—

(1) such missiles are needed by the recipient country to counter an immediate air threat and/or to contribute to the protection of United States personnel, facilities or operations;

(2) no other appropriate system is available from the United States;

(3) the recipient agrees to safeguards as required in the Letter of Offer and Acceptance by the United States Government to protect against diversion; and

(4) the recipient country has agreed to a United States buyback of all the remaining missiles and components which have

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[89] 7 U.S.C. 3602 note.

[90] For text, see page 559.

[91] Similar language was first enacted as sec. 573 of the Foreign Assistance Appropriations Act, 1988.

not been destroyed or fired in order to return them to the possession and control of the United States when another United States air defense system which meets the military requirements can be made available or not more than 18 months from the date of enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.[92]

(c) NOTIFICATION.—Before issuing any letter of offer to sell or provide Stinger missiles (without regard to the amount of the sale or transfer) the President shall notify the Speaker of the House of Representatives and the Majority Leader of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act.[93]

(d) ILLEGAL ACQUISITION.—Effective April 1, 1989, before issuing any letter of offer to sell any defense article or defense service to Qatar, Qatar shall have returned all Stinger antiaircraft missiles illegally acquired or purchased. The President shall notify the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate when all such missiles have been returned.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 567.[94] (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.[95]

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 568.[96] Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1989—

(1) shall not be obligated or expended for assistance to a country listed in section 6(j) of the Export Administration Act

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[92] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, was enacted on December 22, 1987.

[93] For text, see page 291.

[94] First enacted as sec. 575 of the Foreign Assistance Appropriations Act, 1988.

[95] For text, see vol. III, sec. J.

[96] First enacted as sec. 576 of the Foreign Assistance Appropriations Act, 1988.

of 1979 [95] on the date of enactment of this Act or placed on that list thereafter,

(2) if obligated before such date as assistance for such country, shall not be disbursed, and

(3) if expended before such date for assistance to be delivered to such country from the United States or by United States nationals, then no such delivery shall be made,

unless such assistance is for humanitarian purposes.

MAINTENANCE OF MILITARY BALANCE OF EASTERN MEDITERRANEAN

SEC. 569.[96] (a) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the eastern Mediterranean.

(b) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, for each fiscal year, the ratio of—

(1) the value of excess defense articles made available for Turkey under this section, to

(2) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

(A) the amount of military assistance and financing provided for Turkey, to

(B) the amount of military assistance and financing provided for Greece.

(c) EXCEPTION TO REQUIREMENT.—Subsection (b) shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles.

DETENTION OF CHILDREN

SEC. 570.[97] It is the sense of the Congress that the practice of detaining children without charge or trial is unjust, inhumane, and is an affront to civilized principles. The Congress further believes that it should be the policy of the United States to make the ending of the practice of detaining children without charge or trial a matter of the highest priority. Therefore, the Congress believes the Secretary of State should convey to all international organizations that ending the practice of detaining children without charge or trial should be a policy of the highest priority for those organizations.

MILITARY ASSISTANCE TO MOZAMBIQUE

SEC. 571.[98] Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available pursuant to this Act may be used to provide military assistance to Mozambique.

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[96] 22 U.S.C. 2373 note.

[97] First enacted as sec. 587 of the Foreign Assistance Appropriations Act, 1988.

[98] First enacted as sec. 589 of the Foreign Assistance Appropriations Act, 1988, under the title "PROHIBITION ON MILITARY ASSISTANCE TO MOZAMBIQUE".

RELATIVELY LEAST DEVELOPED COUNTRIES

SEC. 572.[99] During fiscal years 1990 and 1991, the President may use the authority of paragraphs (A) and (B) of section 124(c)(1) of the Foreign Assistance Act of 1961 with respect to such aggregate amounts of principal and interest payable during each of these fiscal years as the President may determine, or at any time after September 30, 1989, the President may, if he determines it is in the national interest to do so, use the authority of those paragraphs with respect to such aggregate amounts of outstanding principal and interest payable at any time after that date as the President may determine. The authority provided in this section may be exercised with respect to any country described in the last sentence of this section and may be exercised notwithstanding section 124(c)(2) of that Act. In exercising the authority provided in this section, the President may waive the requirement that equivalent amounts of local currencies be deposited into local currency accounts in accordance with paragraph (A) of section 124(c)(1) of that Act, to the extent that the President determines that sufficient local currencies are otherwise available to achieve development objectives. This section applies with respect to any relatively least developed country, or any country in Sub-Saharan Africa (without regard to whether that country is a relatively least developed country within the meaning of section 124(a) of that Act), if—

(1) an International Monetary Fund standby agreement is in effect with respect to that country; or

(2) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country; or

(3) a structural adjustment facility or enhanced structural adjustment facility with the International Monetary Fund is in effect with respect to that country.

HONDURAS—RAMIREZ CASE

SEC. 574.[100] It is the sense of the Congress that, pursuant to the procedures contained in section (j) under the heading "Assistance for Central America" enacted in Public Law 100-71,[101] the Hondu-

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[99] 22 U.S.C. 2151v note.

[100] H.R. 4637, as it was approved by Congress, included a sec. 573. Sec. 573, however, was omitted from the enrolled version of the bill. H.R. 4637, as printed by the House on July 7, 1988, and the Conference Report of September 26, 1988 (Report 100-983), showed sec. 573 to read as follows:

"RESOLUTION OF JAPANESE BEETLE PROBLEM

"SEC. 573. None of the funds appropriated by this Act may be used to fund any programs to assist in solving the Japanese beetle problem in the Azores. It is the sense of the Congress that this problem was created by the Department of Defense which should fund any program to resolve it."

[101] Chapter IV, sec. (j) of the Supplemental Appropriations Act, 1987 (Public Law 100-71, 101 Stat. 406), provided the following:

"(j) Of the funds specified for Honduras in paragraph (b), $20,000,000 shall be obligated, but shall not be expended, except as provided in the fourth proviso, until the Government of Honduras and an American citizen, whose property and businesses in the vicinity of Trujillo, Honduras were affected by actions of the Government of Honduras with respect to the Regional Military Training Center, reach a settlement concerning compensation: *Provided* , That in order to facilitate such a settlement the Department of State shall select an independent factfinder. The

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ran Government appears to have made a reasonable and good faith settlement offer based on a factual analysis by third parties, and the owner of the property in question is strongly encouraged to accept the proposed settlement. Therefore, notwithstanding the provisions of such section, $5,000,000 of the Economic Support Funds made available by Public Law 100–71 for Honduras but withheld from expenditure shall be available for expenditure upon enactment of this Act: *Provided*, That if a settlement is reached on the property in question, then the additional $15,000,000 withheld from expenditure pursuant to such section shall then be available for expenditure.

CONGRESSIONAL PRESENTATION FOR SECURITY ASSISTANCE PROGRAMS

SEC. 575. Unless the fully printed final version of the fiscal year 1990 Congressional Presentation for Security Assistance Programs is received by the Congress by March 1, 1989, $10,000,000 of the funds appropriated by this Act for the Military Assistance Program shall be returned immediately to the General Fund of the United States Treasury.

SOUTH AFRICA—SCHOLARSHIPS

SEC. 576. Of the funds made available by this Act under the heading "Economic Support Fund", not less than $10,000,000 shall be made available for scholarships for disadvantaged South Africans: *Provided*, That these funds shall be in addition to funds earmarked under such heading for Sub-Saharan Africa.

THIRD PARTY TRANSFER

SEC. 577. Section 3(d) of the Arms Export Control Act is amended—

(1) in paragraph (2)(A), by striking out "law" and inserting in lieu thereof "joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act"; and

(2) in paragraph (3), by adding at the end thereof "Such consent shall become effective then only if the Congress does not

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factfinder shall correct and expand, as may be appropriate, the existing factfinder's report. Such report shall be issued by September 30, 1987: *Provided further*, That if the two parties have not reached a full and final settlement of this matter, including a complete waiver of further claims and liabilities against the Governments of Honduras and the United States, by November 30, 1987, then the Department of State shall request that both parties submit the disagreement to binding international arbitration in accordance with the rules of procedure of the Inter-American Commercial Arbitration Commission. The Commission shall select the arbitrators, and may appoint such experts as it finds necessary in order to establish a base of factual and financial information for the case: *Provided further*, That if the Government of Honduras refuses to agree to binding international arbitration, then the $20,000,000 shall be deobligated and immediately returned to the Treasury of the United States: *Provided further*, That if the United States citizen refuses to agree to binding international arbitration and refuses to agree that the award resulting from the arbitration will constitute a full and final settlement of any and all claims, liabilities and demands, including those which may be directed at the United States, its officers, agents and employees, arising directly or indirectly from the establishment of the Regional Military Training Center, then the $20,000,000 shall be made available for expenditure to the Government of Honduras: *Provided further*, That arbitrators shall consider maintenance costs, interest costs, professional fee costs, land, business and asset valuations and all other matters they deem appropriate: *Provided further*, That nothing in this provision shall prevent the two parties prior to a final arbitration award from reaching a binding full and final written agreement outside the arbitration process: *Provided further*, That funds previously appropriated for the Economic support fund shall be used to pay for the reasonable costs of the activities of the factfinder, the International Arbitration Commission, the arbitrators, and the experts appointed by the arbitrators."

enact, within a 30-day period, a joint resolution, as provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer.".

NARCOTICS CONTROL PROGRAM

SEC. 578. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund" $61,000,000 shall be made available only for Bolivia, Ecuador, Jamaica, and Peru; but not more than $25,000,000 shall be available to any one country.

(2) Of the funds appropriated by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 (relating to the military assistance program) $16,500,000 shall be made available only for Bolivia, Ecuador, Jamaica, and Colombia, but not more than $5,000,000 shall be available for any one country.

(3)[102] Funds made available under this subsection shall be available for obligation consistent with the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control).

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1988, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

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[102] Sec. 4205(h) of Public Law 100-690 struck out paragraph (3), struck out "except as provided in paragraph (3) of this subsection" at the end of para. (4), and redesignated (4) as (3). Paragraph (3) formerly read as follows:

"(3) Of the funds appropriated by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $3,500,000 shall be made available in accordance with the general authorities contained in section 481(a) of the Foreign Assistance Act of 1961, only for the procurement of weapons or ammunition for foreign law enforcement agencies, and paramilitary units organized for the specific purposes of narcotics enforcement, for use in narcotics control, eradication, and interdiction efforts, notwithstanding section 482(b) of such Act: *Provided*, That funds made available under this paragraph shall be made available only for Bolivia, Peru, Colombia, Ecuador, and for the regional air wing pursuant to sections 482 and 484 of the Foreign Assistance Act of 1961, and shall be in addition to amounts earmarked for the countries contained in paragraph (2) of this subsection."

(d) [103] If any funds appropriated by this Act for "Economic Support Fund", "Military Assistance", "International Military Education and Training", or "Foreign Military Credit Sales" are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking, those funds shall be reprogrammed for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking: *Provided,* That any such reprogramming shall be subject to the notification procedures of the Committees on Appropriations.

(e)(1) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs), of the Agency for International Development, and up to $15,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

(2) Section 481(i)(4)(E) of the Foreign Assistance Act of 1961 is amended by—

(A) inserting "(vii) assistance for narcotics education and awareness activities under section 126 of this Act;" after "this Act,"; and

(B) redesignating clause (vii) as clause (viii).

(f) In order to maximize the participation of other countries in the effort to promote international narcotics control, the Secretary of State is directed to urge the United Nations Fund for Drug Abuse Control to develop a more comprehensive program for enlisting greater multilateral support for coca control programs and related development activities in South America.

(g)(1) Section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(ii) A bilateral narcotics agreement referred to in clause (i)(I) is an agreement between the United States and a foreign country whereby the foreign country agrees to undertake specific activities including, where applicable, efforts to reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution; drug interdiction and enforcement; drug consumption and treatment; identification and elimination of illicit drug laboratories; identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs; cooperation with United States drug enforcement officials; and, where applicable, participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.".

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[103] Sec. 4206(a) of Public Law 100-690 amended the FA Act of 1961 by adding at the end a new sec. 486, titled: "Reallocation of Funds Withheld From Countries Which Fail to Take Adequate Steps to Halt Illicit Drug Production or Trafficking." Sec. 4206(b) of Public Law 100-690 stipulated that sec. 578(d) of this Act is superseded by the new sec. 486. For text of sec. 486, FA Act of 1961, see page 137.

(2) Section 585(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in Public Law 100-202) is amended to read as follows:

"(c) Beginning with certifications with respect to fiscal year 1989 and each subsequent year, a country which in the previous year was designated a major drug producing or drug transit country may not be deemed as cooperating fully unless it has in place a bilateral narcotics agreement with the United States, or a multilateral agreement which achieves the objectives of this section.".[104]

(3) Section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 is amended by inserting "or multilateral agreement which achieves the objectives of this subsection," after "(ii))".

(h) Section 481(h)(1) of the Foreign Assistance Act of 1961 is amended by inserting before "Subject" the following: "Not later than October 1 of each year, the Secretary of State shall submit a report to the Congress of those countries identified by the Secretary as being major drug producing or major drug transit countries (including the definition used to determine such drug transit countries) for purposes of the withholding requirements contained in subparagraph (A) of this paragraph and the certification requirements contained in paragraph (2) of this subsection.".

(i) Section 481(h)(2)(B) of the Foreign Assistance Act of 1961 is amended by striking out "clause (A)(ii)" and inserting in lieu thereof "subparagraph (A)(i)(II)".

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

SEC. 579.[105] Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act [106]) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 580.[107] Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act [108] may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the

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[104] Sec. 4407(b)(2) of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4281) struck out sec. 585(c).

[105] 22 U.S.C. 2373 note.

[106] For text, see page 298.

[107] 22 U.S.C. 2763 note.

[108] For text, see page 273.

President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

CAMBODIAN NON-COMMUNIST RESISTANCE FORCES

SEC. 581. If the President makes available funds appropriated by this Act for the Cambodian non-Communist resistance forces, not to exceed $5,000,000 may be made available for such purpose, and such funds shall be derived from funds appropriated under the headings "Military Assistance" and "Economic Support Fund", and shall be made available notwithstanding any other provision of law: *Provided*, That funds made available for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83).[109]

HUMAN RIGHTS IN CUBA

SEC. 582. It is the sense of the Congress that—

(1) the United Nations, the United Nations Human Rights Commission, and the Chairman of the Commission are to be commended for Decision 1988/106 as interpreted by the Chairman which establishes a working group on Cuba to conduct an on-site investigation on Cuban human rights conditions and prepare a report for consideration under agenda item 12(h) at the 45th session of the Commission in 1989;

(2) the President, the Secretary of State, the Permanent Representative of the United States to the United Nations, and the Representative of the United States to the United Nations Human Rights Commission are to be commended for their efforts to place Cuba on the agenda of the Commission and are strongly encouraged to continue to support and assist the Commission in its implementation of Decision 1988/106;

(3) the following countries are to be commended for their courageous support for an independent investigation of the human rights situation in Cuba under the auspices of the United Nations and consideration of Cuba under agenda item 12 at the 45th session of the Commission: Bangladesh, Belgium, Costa Rica, France, the Gambia, Federal Republic of Germany, Ireland, Japan, Mozambique, Norway, the Philippines, Sao Tome and Principe, Portugal, Senegal, Somalia, Togo, the United Kingdom, and Venezuela;

(4) the following countries, despite overwhelming evidence of serious human rights abuses in Cuba, failed to support the efforts of the United States to establish an independent working group on Cuba and to provide for consideration of the report of this group under agenda item 12, a nonconfidential procedure reserved for countries with records of serious human rights violations: Algeria, Argentina, Botswana, Bulgaria, People's Republic of China, Colombia, Cyprus, Ethiopia, German Democratic Republic, India, Iraq, Mexico, Nicaragua, Nigeria, Paki-

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[109] For text, see page 385.

stan, Peru, Rwanda, Spain, Sri Lanka, Union of Soviet Socialist Republics, and Yugoslavia;

(5) in accordance with section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, the United States should continue to take into account whether countries support an independent investigation of human rights violations in Cuba under the auspices of the United Nations and consideration of Cuba under agenda item 12 at the 45th session of the Commission when considering bilateral assistance and the financial contribution to the United Nations; and

(6) the Congress strongly objects to the election of Cuba and Panama to the Commission and strongly urges the Secretary General and Chairman, and the other members of the Commission to insure that Cuba and Panama do not in any way interfere with the independence of the pending investigation, the preparation of the resulting report, or the consideration of this report under agenda item 12(h) at the Commission's 45th session.

ASSISTANCE FOR POLAND

SEC. 583.[110] Up to the equivalent of $500,000 of the non-convertible and convertible Polish currencies (after satisfaction of preexisting commitments to use such currencies for other purposes specified by law) held by the United States which have been generated by the sale to Poland of United States agricultural products may be made available for the reconstruction, renovation, and maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland: *Provided*, That such currencies shall be made available notwithstanding 31 U.S.C. 1306.

COMPETITIVE INSURANCE

SEC. 584. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate.

PAY RAISES

SEC. 585. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

FAIR PRICING

SEC. 586. (a) The last sentence of paragraph (3) of section 503(a) of the Foreign Assistance Act of 1961 is amended by inserting immediately after the phrase "under paragraph (3)" the phrase "or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act", and by inserting after "Armed Forces of the United States" the phrase "(other than the Coast Guard)".

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[110] Similar language was first enacted as sec. 581 of the Foreign Assistance Appropriations Act, 1988.

(b) The Secretary of Defense shall waive collection of the following amounts of surcharges otherwise due on the letter of offer and acceptance (without amendment) for the sale to Israel of aircraft known as Peace Marble III and on the letter of offer and acceptance (without amendment) for the sale to Egypt of aircraft known as Peace Vector III:

(1) $20,000,000 of administrative surcharges under section 21(e)(1)(A) of the Arms Export Control Act for the letter of offer and acceptance with Israel and $11,700,000 of administrative surcharges under that section for the letter of offer and acceptance with Egypt: *Provided,* That the Secretary shall reimburse the fund established to carry out section 43(b) of the Arms Export Control Act in the amount of the surcharges waived pursuant to this paragraph from any funds available to the Department of Defense, as he determines; and

(2) $70,000,000 of nonrecurring cost recoupment surcharges under section 21(e)(1)(C) of the Arms Export Control Act for the letter of offer and acceptance with Israel and $38,000,000 of nonrecurring cost recoupment surcharges under that section for the letter of offer and acceptance with Egypt.

(c)[111] This section shall be effective on October 1, 1989.

IRELAND

SEC. 587. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full-time jobs in the areas that have suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

NOTICE TO CONGRESS REGARDING POSSIBLE MISSILES SALES

SEC. 588. (a) PRICE AND AVAILABILITY REPORTS.—Section 28 of the Arms Export Control Act is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "or" after "$7,000,000 or more" and inserting in lieu thereof a comma, and

(B) by inserting ", or of any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the possible sale)," after "$25,000,000 or more"; and

(2) in clause (2) of subsection (b)—

(A) by striking out "or" after "$7,000,000 or more" and inserting in lieu thereof a comma, and

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[111] 22 U.S.C. 2311 note.

(B) by inserting ", or of any Air-to-Ground or Ground-to-Air missiles or associated launchers (without regard to the amount of the proposed sale)," after "$25,000,000 or more".

(b) **Notifications in the Absence of Recent Price and Availability Report Listing.**—

(1) **Sales subject to notification requirement.**—Paragraph (2) of this subsection applies with respect to any letter of offer to sell any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the sale) if, within the preceding 6 months, a listing has not been transmitted to the Congress pursuant to section 28 of the Arms Export Control Act [112] with respect to that sale and if section 36(b) [111] of that Act does not apply.

(2) **Requirement for notification.**—Before issuing any letter of offer described in paragraph (1), the President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act.[113]

(3) **Time for notification.**—The notification required by paragraph (2) shall be submitted not less than 30 days before the letter of offer is issued, unless the President states in the notification that an emergency exists which requires the proposed sale in the national security interests of the United States. If the President states that such an emergency exists, he shall include a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security issues involved.

FUNDING ADJUSTMENTS

Sec. 589. Notwithstanding any other provision of this Act, the following amount is hereby appropriated in lieu of the amount contained previously herein for payment to the African Development Bank, $7,345,371: *Provided,* That notwithstanding any other provision of this Act, during fiscal year 1989, total commitments by the Overseas Private Investment Corporation to guarantee loans shall not exceed $175,000,000 of contingent liability for loan principal: *Provided further,* That section 514 of this Act is amended to read as follows:

"TRANSFERS BETWEEN ACCOUNTS

"Sec. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated.".

OLD EXECUTIVE OFFICE BUILDING

Sec. 590.[114] (a) **Acceptance of Gifts of Money and Property.**—The Director of the Office of Administration is authorized to—

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[112] For text of sec. 28 and 36(b), see pages 283 and 291, respectively.

[113] For text, see page 291.

[114] 3 U.S.C. 101 note.

(1) accept, hold, administer, utilize and sell gifts and bequests of property, both real and personal, and loans of personal property other than money; and

(2) accept and utilize voluntary and uncompensated services;

for the purpose of aiding, benefiting, or facilitating the work of preservation, restoration, renovation, rehabilitation, or historic furnishing of the Old Executive Office Building and the grounds thereof.

(b) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund for use in accordance with the provisions of this section. Amounts of money and proceeds from the sale of property accepted under subsection (a) shall be deposited in the fund, which shall be available to the Director of the Office of Administration. Such funds shall be held in trust by the Secretary of the Treasury.

(c) USE OF FUND.—Property accepted pursuant to this section or the proceeds from the sale thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. Any use or sale of property accepted pursuant to this section, and any use of proceeds from such sale, shall be subject to the disapproval of the Administrator of General Services within 30 days after the Administrator receives notice of such use or sale. The Director of the Office of Administration shall not accept any gift under this section that is expressly conditioned on any expenditure not to be met from the gift itself unless such expenditure has been approved by an Act of Congress.

(d) TAXES.—For the purpose of the Federal income, estate, and gift tax laws, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

EL SALVADOR ECONOMIC SUPPORT FUNDS

SEC. 591. Not less than 25 percent of the Economic Support Funds made available for El Salvador by this Act shall be used for projects and activities in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961.

ASSISTANCE TO AFGHANISTAN

SEC. 592. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.

COSTA RICA

SEC. 593. The Department of State shall select an independent factfinder to investigate the legal and financial issues related to the case involving the Government of Costa Rica and an American citizen concerning property and businesses in the vicinity of Limon Province, Costa Rica. The Department of State shall report, no later than March 1, 1989, the findings made by the factfinder to the parties involved and to the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The costs of the factfinder shall be paid from unearmarked funds provided under the heading "Economic Support Fund".

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989".

b. Appropriation: Rescission

Public Law 100-251 [H.R. 3884], 102 Stat. 17, approved February 16, 1988

AN ACT To rescind certain budget authority recommended in Public Law 100-202.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That of the funds make available in the fiscal year 1988 Foreign Operations, Export Financing and Related Programs Appropriations Act (Public Law 100-202), under the heading Migration and Refugee Assistance,[1] $8,000,000 for the construction of educational facilities for North African Jewish refugees in France is rescinded.

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[1] Public Law 100-202 (101 Stat. 1329-146), under the heading "MIGRATION AND REFUGEE ASSISTANCE", provided:

"That not less than $8,000,000 shall be available for the construction of educational facilities for North African Jewish refugees in France:

"* * * *Provided further,* That funds appropriated under this heading for refugees resettling in Israel and for educational facilities for North African Jewish refugees shall be made available notwithstanding any other provision of law:".

c. Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988

Partial text of Public Law 100-202 [Sec. 101(e) of the Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329-131, approved December 22, 1987, as amended by Public Law 100-461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, H.R. 4637], 102 Stat. 2268, approved October 1, 1988, and by Public Law 100-690 [International Narcotics Control Act of 1988, H.R. 5210], 102 Stat. 4181, approved November 18, 1988

> NOTE.—Appropriations for foreign assistance and related programs for fiscal year 1988 are included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Sec. 101(e) of the Continuing Appropriations Act, 1988, Public Law 100-202, 101 Stat. 1329).

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

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AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

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TITLE II—BILATERAL ECONOMIC ASSISTANCE

* * * * * * *

ECONOMIC SUPPORT FUND [1]

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,188,320,000: *Provided*, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1987, whichever is later: *Provided further*, That not less than $815,000,000 shall be available only for

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[1] This paragraph made Economic Support Fund appropriations available for two years, until September 30, 1989. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) also made Economic Support Fund appropriations available for two years, until September 30, 1990. For text, see page 525.

Egypt, which sum shall be provided on a grant basis, of which not more than $115,000,000 may be provided as a cash transfer with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That of the funds appropriated under this heading $220,000,000 only shall be available for Pakistan: *Provided further,* That not less than $124,000,000 of the funds appropriated under this heading shall be available only for the Philippines: *Provided further,* That not less than an additional $50,000,000 of the funds appropriated under this heading shall be available only for the Philippines to assist in the implementation of agrarian reform in the Philippines if (1) the Government of the Philippines initiates an effective agrarian reform program and requests assistance from the United States for that program, and (2) a substantial majority of the resources for the implementation of that program will be provided by the Government of the Philippines or other non-United States donors, or both: *Provided further,* That if the conditions on agrarian reform in the Philippines are not met by August 31, 1988, these funds may be made available for assistance under this heading for other countries or programs: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be available only for Morocco: *Provided further,* That not less than $10,000,000 of the funds appropriated under this heading shall be available only for Tunisia: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be available only for Cyprus: *Provided further,* That of the funds appropriated under this heading $35,000,000 only shall be available for Ireland: *Provided further,* That of the funds appropriated under this heading $185,000,000 only shall be available for El Salvador, $80,000,000 only shall be available for Guatemala, $90,000,000 only shall be available for Costa Rica, and $85,000,000 only shall be available for Honduras: *Provided further,* That of the funds appropriated under this heading for El Salvador, 10 percent of such funds may not be obligated until enactment of the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989", and may be obligated only if, by the date of enactment of such Act, the accused murderers of United States marines in El Salvador have not been released from prison as a result of an amnesty program: *Provided further,* That not less than $18,000,000 of the funds appropriated under this heading shall be made available for Jordan, of which a substantial proportion of these funds shall be in support of the development program for the West Bank: *Provided further,* That of the funds appropriated under this heading, not less than $90,000,000 shall be available for Sub-Saharan Africa:

Provided further, That notwithstanding section 660 of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this heading may be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress: *Provided further,* That $20,000,000 of the funds appropriated under this heading shall be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961, of which $300,000 shall be made available for programs for Haiti and not less than $2,000,000 shall be made available for programs for Guatemala: *Provided further,* That if funds made available under this heading are provided to a foreign country as cash transfer assistance, that country shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further,* That such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That all local currencies that may be generated with such funds provided as a cash transfer shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: *Provided further,* That at least 15 days prior to obligating any such cash transfer assistance to a foreign country under this heading, the President shall submit a notification to the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by the cash transfer assistance): *Provided further,* That not more than $5,000,000 of the funds made available under this heading may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated under this heading may be used for tied aid credits without the prior approval of the Administrator of the Agency for International Development: *Provided further,* That $25,000,000 of the funds appropriated under this heading shall be made available for earthquake relief, rehabilitation, and reconstruction assistance for El Salvador in accordance with section 491 of the Foreign Assistance Act of 1961, which amount shall be accounted for separately and, of which amount, not less than $2,000,000 shall be available for reconstruction and rehabilitation of the National University of El Salvador and other institutions of higher education: *Provided further,* That the Office of the Inspector General of the Agency for International Development shall monitor the use of funds made available under this heading for earthquake relief, rehabilitation, and reconstruction assistance for El Salvador and shall provide, by April 15, 1988, a detailed accounting to the Committees on Appropriations of the uses of the funds made available for El Salvador during fiscal year 1987 for earthquake relief, rehabilitation, and reconstruction: *Provided further,* That $1,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, only for the support of the independent Polish trade union "Solidarity": *Provided further,* That of the funds appropriated under this heading not less than $1,000,000 shall be made available, notwithstanding any other provision of law, only for the promotion of democratic activities in Chile leading to a transition to democracy: *Provided further,* That funds made available under this heading shall remain available until September 30, 1989.

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TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE [2]

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $700,750,000: *Provided,* That of the funds appropriated under this heading not less than $125,000,000 shall be made available only for the Philippines: *Provided further,* That $40,000,000 shall be made available only for Morocco: *Provided further,* That up to $30,000,000 shall be made available only for Tunisia: *Provided further,* That of the funds appropriated under this heading not less than $7,000,000 shall be made available only for Guatemala: *Provided further,* That none of the funds appropriated or otherwise made available pursuant to this Act may be used for the procurement by Guatemala of any weapons or ammunition: *Provided further,* That $156,000,000 only shall be available for Turkey, and $30,000,000 only shall be available for Greece: *Provided further,* That of the funds appropriated under this heading not more than $28,000,000 shall be used for general costs of administering the Military Assistance program: *Provided further,* That not more than $2,400,000 of the funds appropriated under this heading shall be made available for Haiti; any material assistance provided from such funds shall be limited to nonlethal items such as transportation and communications equipment and uniforms: *Provided further,* That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated under this heading $10,000,000 shall be used for the purposes of section 506(c) of the Foreign Assistance Act of 1961 to make reimbursement for the cost of defense articles, defense services and/or defense training provided to the Philippines pursuant to the President's determination of September 16, 1986, or for an additional amount for use for the general costs of administering the Military Assistance program if the Secretary of Defense so directs in writing: [3] *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That section 514 of the Foreign Assistance Act of 1961 is amended (1) by amending subsection (b)(2) to read as follows: "(2) The value of such additions to stockpiles in foreign countries shall not exceed $116,000,000 for fiscal year 1988.", and (2) by amending subsection (c) by inserting ", Thailand," after "Korea": *Provided further,* That funds appropriated under this heading shall remain available until September 30, 1990.

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[2] This paragraph made Military Assistance appropriations available for three years, until September 30, 1990. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268) made Military Assistance appropriations available for three years with the following proviso:

"*Provided further,* That any military assistance funds appropriated by this Act that have not been committed for the payment of any sale under the Arms Export Control Act during the period ending at the end of the second fiscal year after the fiscal year for which such funds were appropriated shall not be committed for such purposes thereafter unless the Committees on Appropriations are given a fifteen-day prior notification of the amount of funds involved, the reasons why no commitment was made thereof, and the proposed sales to be financed with such funds;"

For complete text, see page 531.

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FOREIGN MILITARY SALES DEBT REFORM

(a) REFINANCING.—Notwithstanding any other provision of law, the President is authorized during fiscal years 1988 through 1991 to transfer existing United States guaranties of outstanding Foreign Military Sales (FMS) credit debt, or to issue new guaranties, either of which would be applied to loans, bonds, notes or other obligations made or issued (as the case may be) by private United States financial institutions (the private lender) to finance the prepayment at par of the principal amounts maturing after September 30, 1989 of existing FMS loans bearing interest rates of ten percent or higher, and arrearages thereon. The loans, bonds, notes or other obligations are hereinafter referred to as the "private loan": *Provided,* That such guaranties which are transferred or are made pursuant to paragraph (a) shall cover no more and no less than ninety percent of the private loan or any portion or derivative thereof plus unpaid accrued interest and arrearages, if any, outstanding at the time of guaranty transfer or extension: *Provided further,* That the total amount of the guaranty of the private loan cannot exceed ninety percent of the outstanding principal, unpaid accrued interest and arrearages, if any, at any time: *Provided further,* That of the total amount of the private loan, the ninety percent guaranteed portion of the private loan cannot be separated from the private loan at any time: *Provided further,* That no sums in addition to the payment of the outstanding principal amounts maturing after September 30, 1989 of the loan (or advance), plus unpaid accrued interest thereon, and arrearages, if any, shall be charged by the private lender or the Federal Financing Bank as a result of such prepayment against the borrower, the guarantor, or the Guaranty Reserve Fund (GRF), except that the private lender may include, in the interest rate charged, a standard fee to cover costs, such fee which will be set at prevailing market rates, and no guaranty fee shall be charged on guarantees transferred or issued pursuant to this provision: *Provided further,* That the terms of guaranties transferred or issued under this paragraph shall be exactly the same as the existing loans or guarantees, except as modified by this paragraph and including but not limited to the final maturity and principal and interest payment structure of the existing loans which shall not be altered, except that the repayments of the private loan issued debt may be consolidated into two payments per year: *Provided further,* That the private loan or guarantees transferred or issued pursuant to this paragraph shall be fully and freely transferable, except that any guaranty transferred or extended shall cease to be effective if the private loan or any derivative thereof is to be used to provide significant support for any non- registered obligation: *Provided further,* That for purposes of sections 23 and 24 of the Arms Export Control Act (AECA), the term "defense services" shall be deemed to include the refinancing of FMS debt outstanding at the date of the enactment of this Act: *Provided further,* That not later than ninety days after the enactment of this Act, the Secretary of the Treasury (Secretary) shall issue regulations to carry out the purposes of this heading and that in issuing such regulations, the Secretary shall (1) facilitate the prepayment of loans and loan advances hereunder, (2) provide for full processing of each application within thirty days of its submission to the Secretary, and (3) except as provided in section 24(a) of the AECA, impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment hereunder or that inhibits the ability of the borrower to enter into prepayment arrangements hereunder: *Provided further,* That the Secretary of State shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate, a copy of the text of any agreement entered into pursuant to this section not more than thirty days after its entry into force, together with a description of the transaction.

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[3] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268–16) repealed the following proviso:

"*Provided further,* That, after September 30, 1989, none of the funds appropriated under this heading shall be made available for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961:".

(b) INTEREST RATE REDUCTION.—Notwithstanding any other provision of law, there is hereby appropriated such sums as may be necessary, but not more than $270,000,000, to be made available after October 1, 1988 to the Secretary of Defense for the Defense Security Assistance Agency for deposit into a new account, to remain available until expended: *Provided,* That the funds shall be used solely for the purpose of lowering the interest rate on Foreign Military Sales (FMS) credits which were financed through the Federal Financing Bank (FFB) for countries which do not refinance one or more FFB loans pursuant to paragraph (a) of this heading, and which loans have interest rates exceeding ten percent, down to an interest rate of ten percent for the remaining life of such loans: *Provided further,* That these funds shall be available only subject to a Presidential budget request: *Provided further,* That it is the intent of the Congress that these funds shall be available to all countries having FMS credits from the FFB that carry interest rates in excess of ten percent.

(c) ARREARAGES.—(1) None of the funds provided pursuant to the Arms Export Control Act (relating to Foreign Military Sales credits) or pursuant to chapter 2 of part II of the Foreign Assistance Act (relating to the Military Assistance program) shall be made available to any country for which one or more loans is refinanced pursuant to paragraph (a) of this heading and which is in default for a period in excess of ninety days in payment of principal or interest on (A) any loan made to such country guaranteed by the United States pursuant to paragraph (a) of this heading, and (B) any other loan issued pursuant to the Arms Export Control Act outstanding on the date of enactment of this provision.

(2) In conjunction with any interest rate reduction pursuant to the authority provided in paragraph (b) of this heading, the President shall require the country to commit in writing that within two years of the effective date of the interest rate reduction it will be no more than ninety days in arrears on the repayment of principal and interest on all loans for which the interest rate is thus reduced and will remain no more than ninety days in arrears for the remaining life of all such loans. None of the funds provided pursuant to the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act shall be made available to any country during any period in which it fails to comply with such commitment.

(d) PURPOSES AND REPORTS.—The authorities of paragraphs (a) and (b) of this heading may be utilized by the President in efforts to negotiate base rights and base access agreements, and for other bilateral foreign policy matters: *Provided further,* That the Secretaries of Defense, State, and Treasury shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate a joint report detailing the United States financial and foreign policy purposes served by implementation of this authority on a country by country basis not later than March 1, 1989, and a second joint report not later than August 1, 1989.

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TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES [4]

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

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[4] This paragraph made direct loan and guaranty authority available for two years, until September 30, 1989. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461, 102 Stat. 2268) also made direct loan and guaranty authority available for two years, until September 30, 1990. For text, see page 535.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1988 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $690,000,000: *Provided,* That at the discretion of the Chairman of the Export-Import Bank, up to $110,000,000 of that amount may be available, subject to the regular notification procedures of the Appropriations Committees of the Senate and House of Representatives, as tied-aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: *Provided further,* That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied-aid credits which are made available from time to time, but not to exceed $110,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That during the fiscal year 1988, total commitments to guarantee loans shall not exceed $10,000,000,000 of contingent liability for loan principal: *Provided further,* That the direct loan and guaranty authority provided under this heading shall remain available until September 30, 1989.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $19,500,000 (to be computed on an accrual basis) shall be available during fiscal year 1988 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

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AMERASIAN IMMIGRATION

SEC. 584. (a)(1) Notwithstanding any numerical limitations specified in the Immigration and Nationality Act, the Attorney General may admit aliens described in subsection (b) to the United States as immigrants if—

(A) they are admissible (except as otherwise provided in paragraph (2)) as immigrants, and

(B) they are issued an immigrant visa and depart from Vietnam during the 2-year period beginning 90 days after the date of the enactment of this Act.

(2) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this section, and the Attorney General on the recommendation of a consular officer may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation by a consular officer.

(3) Notwithstanding section 221(c) of the Immigration and Nationality Act, immigrant visas issued to aliens under this section shall be valid for a period of 8 months.

(b)(1) An alien described in this section is an alien who, as of the date of the enactment of this Act, is residing in Vietnam and who establishes to the satisfaction of a consular officer or an officer of the Immigration and Naturalization Service after a face-to-face interview, that the alien—

(A)(i) was born in Vietnam after January 1, 1962, and before January 1, 1976, and (ii) was fathered by a citizen of the United States (such an alien in this section referred to as a "principal alien");

(B) is the spouse or child of a principal alien and is accompanying, or following to join, the principal alien; or

(C) subject to paragraph (2), either (i) is the principal alien's natural mother (or is the spouse or child of such mother), or (ii) has acted in effect as the principal alien's mother, father, or next-of-kin (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

(2) An immigrant visa may not be issued to an alien under paragraph (1)(C) unless the principal alien involved is unmarried and the officer referred to in paragraph (1) has determined, in the officer's discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unity. If an alien described in paragraph (1)(C)(ii) is admitted to the United States, the natural mother of the principal alien involved shall not, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act by virtue of such parentage.

(3) For purposes of this section, the term "child" has the meaning given such term in section 101(b)(1) (A), (B), (C), (D), and (E) of the Immigration and Nationality Act.

(c) Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration and Nationality Act to the same extent as individuals admitted (or awaiting admission) to the United States under section 207 of such Act are eligible for benefits under such chapter.

(d) The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this section and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

(e) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

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d. Foreign Assistance and Related Programs Appropriations Act, 1984

Partial text of Public Law 98–151 [Further Continuing Appropriations for Fiscal Year 1984, H.J. Res. 413], 97 Stat. 964, approved November 14, 1983

A JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1984.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organization units of the government for the fiscal year 1984, and for other purposes, namely:

Sec. 101. (a) * * *

(b)(1) * * *

[1] None of the funds heretofore appropriated or otherwise made available for Syria for the purpose of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be expended after the date of enactment of this joint resolution. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (and predecessor legislation) for

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[1] 22 U.S.C. 2346a. See also sec. 1004 of the Department of State Authorization Act, fiscal years 1984 and 1985 (Public Law 98–164, 97 Stat. 1017), for provision concerning termination of assistance programs for Syria, vol. II, sec. D.

Sec. 101(j) of the Continuing Appropriations Act, 1986 (Public Law 99–190) provided the following:

"RESCISSION

"Deobligation and rescission of funds: $11,200,000 of the funds remaining in the 'Syria Termination Account' created by Public Law 98–151 are deobligated and are rescinded: *Provided,* That the authority contained in sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, shall not be exercised to permit the use of funds remaining in the 'Syria Termination Account' created by Public Law 98–151 for any other purposes than those for which the account was created."

Syria are hereby continued available until expended to meet necessary expenses arising from the termination under this subsection of assistance programs for Syria authorized by such chapter: *Provided,* That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria.

e. Title 31, United States Code—Valid Obligations [1]

§1108. Preparation and submission of appropriations requests to the President

(a) In this section (except subsections (b)(1) and (e)), "agency" means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or changes in the budget or as deficiency and supplemental appropriations. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the requests contains obligations consistent with section 1501 of this title. The head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations.

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

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[1] The provisions included below were originally enacted as sec. 1311 of the Supplemental Appropriations Act, 1955 (Public Law 84-663, 68 Stat. 800). Public Law 97-258 (96 Stat. 877) revised and codified certain general and permanent laws of the United States relating to money and finance, including sec. 1311 of Public Law 84-663.

(e) Except as provided in subsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or requests, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress.

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§ 1501. Documentary evidence requirement for Government obligations

(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—

(1) a binding agreement between an agency and another person (including an agency) that is—

(A) in writing, in a way and form, and for a purpose authorized by law; and

(B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;

(2) a loan agreement showing the amount and terms of repayment;

(3) an order required by law to be placed with an agency;

(4) an order issued under a law authorizing purchases without advertising—

(A) when necessary because of a public exigency;

(B) for perishable subsistence supplies; or

(C) within specific monetary limits;

(5) a grant or subsidy payable—

(A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;

(B) under an agreement authorized by law; or

(C) under plans approved consistent with and authorized by law;

(6) a liability that may result from pending litigation;

(7) employment or services of persons or expenses of travel under law;

(8) services provided by public utilities; or

(9) other legal liability of the Government against an available appropriation or fund.

(b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.

§ 1502. Balances available

(a) The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expense properly incurred during the period of availability or to compete contracts properly made with that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

(b) A provision of law requiring that the balance of an appropriation or fund be returned to the general fund of the Treasury at the end of a definite period does not affect the status of lawsuits or rights of action involving the right to an amount payable from the balance.

3. Other Foreign Assistance Related Legislation and Materials

a. Latin American Development Act, as amended

Public Law 86–735 [H.R. 13021], 74 Stat. 869, approved September 8, 1960, as amended by the Foreign Assistance Act of 1961, [Public Law 87–195, S. 1983], 75 Stat. 424, approved September 4, 1961; and by Public Law 88–205 [Foreign Assistance Act of 1963, H.R. 7885], 77 Stat. 379, approved December 16, 1963

AN ACT To provide for assistance in the development of Latin America and in the reconstruction of Chile, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Latin American Development Act".[1]

STATEMENT OF POLICY

Sec. 1.[2] (a) It is the sense of the Congress that—

(1) the historic, economic, political, and geographic relationships among the American Republics are unique and of special significance and, as appropriate, should be so recognized in future legislation;

(2) although governmental forms differ among the American Republics, the peoples of all the Americas are dedicated to the creation and maintenance of governments which will promote individual freedom;

(3) the interests of the American Republics are so interrelated that sound social and economic progress in each is of importance to all and that lack of it in any American Republic may have serious repercussions in others;

(4) for the peoples of Latin America to continue to progress within the framework of our common heritage of democratic ideals, there is a compelling need for the achievement of social and economic advance adequate to meet the legitimate aspirations of the individual citizens of the countries of Latin America for a better way of life;

(5) there is a need for a plan of hemispheric development, open to all American Republics which cooperate in such plan, based upon a strong production effort, the expansion of foreign trade, the creation and maintenance of internal financial stability, the growth of free economic and social institutions, and the development of economic cooperation, including all possible steps to establish and maintain equitable rates of exchange and to bring about the progressive elimination of trade barriers;

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[1] Sec. 401(a) of the FA Act of 1963 inserted the words "That this Act may be cited as the 'Latin American Development Act'."

[2] 22 U.S.C. 1942.

(6) mindful of the advantages which the United States has enjoyed through the existence of a large domestic market with no internal trade barriers, and believing that similar advantages can accrue to all countries, it is the hope of the people of the United States that all American Republics will jointly exert sustained common efforts which will speedily achieve that economic cooperation in the Western Hemisphere which is essential for lasting peace and prosperity; and

(7) accordingly, it is declared to be the policy of the people of the United States to sustain and strengthen principles of individual liberty, free institutions, private enterprise, and genuine independence in the Western Hemisphere through cooperation with all American Republics which participate in a joint development program based upon self-help and mutual efforts.

(b) In order to carry forward the above policy, the Congress hereby—

(1) urges the President through our constitutional processes to develop cooperative programs on a bilateral or multilateral basis which will set forth specific plans of action designed to foster economic progress and improvements in the welfare and level of living of all the peoples of the American Republics on the basis of joint aid, mutual effort, and common sacrifice;

(2) proposes the development of workable procedures to expand hemispheric trade and to moderate extreme price fluctuations in commodities which are of exceptional importance in the economies of the American Republics, and encourages the development of regional economic cooperation among the American Republics;

(3) supports the development of a more accurate and sympathetic understanding among the peoples of the American Republics through a greater interchange of persons, ideas, techniques, and educational, scientific, and cultural achievements;

(4) supports the strengthening of free democratic trade unions to raise standards of living through improved management-labor relations;

(5) favors the progressive development of common standards with respect to the rights and the responsibilities of private investment with flows across national boundaries within the Western Hemisphere;

(6) supports the consolidation of the public institutions and agencies of inter-American cooperation, insofar as feasible, within the structure of the Organization of American States and the strengthening of the personnel resources and authority of the Organization in order that it may play a role of increasing importance in all aspects of hemispheric cooperation; and

(7) declares that it is prepared to give careful and sympathetic consideration to programs which the President may develop for the purpose of promoting these policies.

AUTHORIZATION

Sec. 2.[3] In order to carry out the purposes of section 1 of this Act, there is hereby authorized to be appropriated to the President not to exceed $680,000,000,[4] which shall remain available until expended, and which the President may use, subject to such further legislative provisions as may be enacted, in addition to other funds available for such purposes, on such terms and conditions as he may specify: *Provided,* That none of the funds made available pursuant to this section shall be used to furnish assistance to any country in Latin America being subjected to economic or diplomatic sanctions by the Organization of American States. The Secretary of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House currently informed about plans and programs for the utilization of such funds.

SPECIAL AUTHORIZATION FOR CHILEAN RECONSTRUCTION

Sec. 3.[5] There is hereby authorized to be appropriated to the President not to exceed $100,000,000,[6] which shall remain available until expended, for use, in addition to other funds available for such purposes, in the reconstruction and rehabilitation of Chile on such terms and conditions as the President may specify.

GENERAL PROVISIONS [7]

Sec. 4.[8] (a) Funds appropriated under sections 2 and 3 of this Act may be used for assistance under this Act pursuant to such provisions applicable to the furnishing of such assistance contained in any successor Act to the Mutual Security Act of 1954, as amended, as the President determines to be necessary to carry out the purposes for which such funds are appropriated.

(b) Of the funds appropriated under section 2 of this Act not more than $800,000 shall be available only for assisting in transporting to and settling in Latin America selected immigrants from that portion of the Ryukyuan Archipelago under United States administration.

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[3] 22 U.S.C. 1943.

[4] Sec. 401(b) of the FA Act of 1963, substituted "$680,000,000" for "$500,000,000". Public Law 87-41, approved May 27, 1961, appropriated $500 million for the Inter-American Social and Economic Cooperation Program to remain available until expended.

[5] 22 U.S.C. 1944.

[6] Public Law 87-41 appropriated "$100,000,000, to remain available until expended."

[7] Sec. 4 and title "General Provisions" were added by sec. 706 of the FA Act of 1961 (Public Law 87-195, 75 Stat. 724).

[8] 22 U.S.C. 1945.

b. Mutual Security Act of 1959, as amended

Partial text of Public Law 86-108 [H.R. 7500], 73 Stat. 246, 22 U.S.C. 1896b, approved July 24, 1959

AN ACT To amend further the Mutual Security Act of 1954, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mutual Security Act of 1959".

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NOTE.—Except for Chapters V, VI, and Sections 702 and 703, the whole of the Mutual Security Act of 1959 consists of amendments to the Mutual Security Act of 1954, as amended, and to other laws.

NOTE.—Section 501(b), which related to international cooperation in health, was repealed by Sec. 602 of the Mutual Security Act of 1960. Section 642 of the Foreign Assistance Act of 1961 repealed Sec. 501(a), Chapter VI, and Sections 702 and 703 of the Mutual Security Act of 1959, as amended.

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CHAPTER V—INTERNATIONAL COOPERATION IN HEALTH; COLOMBO PLAN COUNCIL FOR TECHNICAL COOPERATION

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COLOMBO PLAN COUNCIL FOR TECHNICAL COOPERATION

Sec. 502. To enable the United States to maintain membership in the Colombo Plan Council for Technical Cooperation, there is hereby authorized to be appropriated from time to time to the Department of State such sums as may be necessary for the payment by the United States of its share of the expenses of the Colombo Plan Council for Technical Cooperation.

c. The Mutual Security Act of 1954, as amended

Retained provisions of Public Law 83–665 [H.R. 9678], 68 Stat. 832, approved August 26, 1954, as amended

Sec. 402.[1] **Earmarking of Funds.**—Of the funds authorized to be made available in the fiscal year 1961 [2] pursuant to this Act (other than funds made available pursuant to title II), not less than $175,000,000 [2] shall be used to finance the export and sale for foreign currencies or the grant of surplus agricultural commodities or products thereof produced in the United States, in addition to surplus agricultural commodities or products transferred pursuant to the Agricultural Trade Development and Assistance Act of 1954, and in accordance with the standards as to pricing and the use of private trade channels expressed in section 101 of said Act. Foreign currency proceeds accruing from such sales shall be used for the purposes of this Act and with particular emphasis on the purposes of section 104 of the Agricultural Trade Development and Assistance Act of 1954 which are in harmony with the purposes of this Act. Notwithstanding section 1415 of the Supplemental Appropriation Act of 1953, or any other provision of law, the President may use or enter into agreements with friendly nations or organizations of nations to use for such purposes the foreign currencies which accrue to the United States under this section. Surplus food commodities or products thereof made available for transfer under this Act (or any other Act) as a grant or as a sale for foreign currencies may also be made available to the maximum extent practicable to eligible domestic recipients pursuant to section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), or to needy persons within the United States pursuant to clause (2) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c). Section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), is amended by inserting "whether in private stocks or" after "commodities" the first time that word appears.

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Sec. 408.[3] **North Atlantic Treaty Organization.**—(a) In order to provide for United States participation in the North Atlantic Treaty Organization, there is hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its share of the expenses of the Organization and all necessary salaries and expenses of the United States permanent representative to the Organization, of such persons as may be appointed to represent the United States in the subsidiary bodies of the Organization or in any multilateral organization which participates in achieving the aims of the North Atlantic Treaty, and of their appropriate staffs, and the expenses of participation in meetings of such organizations, including salaries, expenses, and allowances of personnel and dependents as authorized by the Foreign Service Act of 1980[4] and allowances and expenses as provided in section 6 of the Act of July 30, 1946 (22 U.S.C. 287r).

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[1] 22 U.S.C. 1922.

[2] Sec. 204(c) of Public Law 86–472 (74 Stat. 136) substituted "1961" for "1960". Previous amendments by sec. 205(c) of Public Law 86–108 (73 Stat. 250), sec. 205(b) of Public Law 85–477 (72 Stat. 266), sec. 8(c) of Public Law 85–141 (71 Stat. 361), sec. 8(b) of Public Law 84–726 (70 Stat. 558), and sec. 8(b) of Public Law 84–138 (69 Stat. 286), changed the amount authorized and/or the fiscal year.

[3] 22 U.S.C. 1928. Sec. 8(h) of Public Law 85–141 (71 Stat. 361), eliminated provisions authorizing appropriations of not more than $3,200,000 for the fiscal year 1955.

(b) The United States permanent representative to the North Atlantic Treaty Organization shall be appointed by the President by and with the advice and consent of the Senate and shall hold office at the pleasure of the President. Such representative shall have the rank and status of ambassador extraordinary and plenipotentiary and shall be a chief of mission under the Foreign Service Act of 1980.[5]

(c) Persons detailed to the international staff of the North Atlantic Treaty Organization in accordance with section 628 of the Foreign Assistance Act of 1961 who are members of the Foreign Service serving under limited appointments may serve for periods of more than five years[6] notwithstanding the limitation in section 309 of the Foreign Service Act of 1980.[7]

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Sec. 417.[8] Irish Counterpart.—Pursuant to section 115(b)(6) of the Economic Cooperation Act of 1948, as amended, the disposition within Ireland of the unencumbered balance, in the amount of approximately 6,000,000 Irish pounds, of the special account of Irish funds established under article IV of the Economic Cooperation Agreement between the United States of America and Ireland, dated June 28, 1948, for the purposes of—

(1) scholarship exchange between the United States and Ireland;

(2) other programs and projects (including the establishment of an Agricultural Institute) to improve and develop the agricultural production and marketing potential of Ireland and to increase the production and efficiency of Irish industry; and

(3) development programs and projects in aid of the foregoing objectives, is hereby approved, as provided in the agreement between the Government of the United States of America and the Government of Ireland, dated June 17, 1954.

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[4] The reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(6) of Public Law 96-465 (94 Stat. 2161).

[5] The reference to the chief of mission under the Foreign Service Act of 1980 was substituted in lieu of a reference to the chief of mission, class 1, within the meaning of the Foreign Service Act of 1946 by sec. 2206(6) of Public Law 96-465 (94 Stat. 2161).

[6] Sec. 205(h) of Public Law 86-108 (73 Stat. 250), substituted "five years" for "four years" in subsec. (c).

[7] Sec. 2206(6) of Public Law 96-465 (94 Stat. 2161) substituted the words to this point beginning with "section 628 * * *" in lieu of text which made reference to sec. 529 of the Mutual Security Act of 1954 and to sec. 522 of the Foreign Service Act of 1946.

[8] 22 U.S.C. 1937.

Sec. 502.[9] **Use of Foreign Currency.**—(a) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law, proceeds of sales made under section 550 of the Mutual Security Act of 1951, as amended, shall remain available and shall be used for any purposes of this Act, giving particular regard to the following purposes—

(1) for providing military assistance to nations or mutual defense organizations eligible to receive assistance under this Act;

(2) for purchase of goods or services in friendly nations;

(3) for loans, under applicable provisions of this Act, to increase production of goods or services, including strategic materials, needed in any nation with which an agreement was negotiated, or in other friendly nations, with the authority to use currencies received in repayment for the purposes stated in this section or for deposit to the general account of the Treasury of the United States;

(4) for developing new markets on a mutually beneficial basis;

(5) for grants-in-aid to increase production for domestic needs in friendly countries; and

(6) for purchasing materials for United States stockpiles.

(b)[10] (1)(A) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law—

(i) local currencies owned by the United States which are in excess of the amounts reserved under section 612(a) of the Foreign Assistance Act of 1961 and of the requirements of the United States Government in payment of its obligations outside of the United States, as such requirements may be determined from time to time by the President; and

(ii) any other local currencies owned by the United States in amounts not to exceed the equivalent of $75 per day per person or the maximum per diem allowance established under the authority of subchapter 1 of chapter 57 of title 5 of the United States Code for employees of the United States Government while traveling in a foreign country, whichever is greater, exclusive of the actual cost of transportation;

shall be made available to Members and employees of the Congress for their local currency expenses when authorized as provided in subparagraph (B).

(B) The authorization required for purposes of subparagraph (A) may be provided—

(i) by the Speaker of the House of Representatives in the case of a Member or employee of the House;

(ii) by the chairman of a standing or select committee of the House of Representatives in the case of a member or employee of that committee;

(iii) by the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, in the case of a Member or employee of the Senate;

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[9] 22 U.S.C. 1754.

[10] Subsec. (b) was amended and restated by sec. 22(a) of the International Security Assistance Act of 1978 (Public Law 95–384, 92 Stat. 742). Sec. 22(b) of the same Act stated that this section shall take effect on the date of enactment of this Act, "notwithstanding section 30 of this Act." For text of sec. 30, see page 461.

(iv) by the chairman of a standing, select, or special committee of the Senate in the case of a member or employee of that committee or of an employee of a member of that committee; and

(v) by the chairman of a joint committee of the Congress in the case of a member or employee of that committee.

(C) Whenever local currencies owned by the United States are not otherwise available for purposes of this subsection, the Secretary of the Treasury shall purchase such local currencies as may be necessary for such purposes, using any funds in the Treasury not otherwise appropriated.

(2) On a quarterly basis, the chairman of each committee of the House of Representatives or the Senate and of each joint committee of the Congress (A) shall prepare a consolidated report (i) which itemizes the amounts and dollar equivalent values of each foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States, stating the purposes of the expenditures including per diem (lodging and meals), transportation, and other purposes, and (ii) which shows the total itemized expenditures, by such committee and by each member or employee of such committee (including in the case of a committee of the Senate, each employee of a member of the committee who received an authorization under paragraph (1) from the chairman of the committee); and (B) shall forward such consolidated report to the Clerk of the House of Representatives (if the committee is a committee of the House of Representatives or a joint committee whose funds are disbursed by the Clerk of the House) or to the Secretary of the Senate (if the committee is a committee of the Senate or a joint committee whose funds are disbursed by the Secretary of the Senate). Each such consolidated report shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after the report is forwarded pursuant to this paragraph. In the case of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, such consolidated report may, in the discretion of the chairman of the committee, omit such information as would identify the foreign countries in which members and employees of that committee traveled.

(3)(A) Each Member or employee who receives an authorization under paragraph (1) from the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, shall within thirty days after the completion of the travel involved, submit a report setting forth the information specified in paragraph (2), to the extent applicable, to the Clerk of the House of Representatives (in the case of a Member of the House or an employee whose salary is disbursed by the Clerk of the House) or the Secretary of the Senate (in the case of a Member of the Senate or an employee whose salary is disbursed by the Secretary of the Senate). In the case of an authorization for a group of Members or employees, such reports shall be submitted for all Members of the group by its chairman, or if there is no designated chairman, by the ranking Member or if the group does not include a Member, by the senior employee in the group. Each report submitted pursuant to this subparagraph shall be open to public inspection.

(B) On a quarterly basis, the Clerk of the House of Representatives and the Secretary of the Senate shall each prepare a consolidation of the reports received by them under this paragraph with respect to expenditures during the preceding quarter by each Member and employee or by each group in the case of expenditures made on behalf of a group which are not allocable to individual members of the group. Each such consolidation shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after its completion.

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Sec. 514.[11] **International Educational Exchange Activities.**—Foreign currencies or credits owed to or owned by the United States, where arising from this act or otherwise, shall, upon a request from the Secretary of State certifying that such funds are required for the purpose of international educational exchange activities under programs authorized by section 32(b)(2) of the Surplus Property Act of 1944, as amended, be reserved by the Secretary of the Treasury for sale to the Department of State for such activities on the basis of the dollar value at the time of the reservation.

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Sec. 523. Coordination With Foreign Policy.—(a) * * *

(b) * * *

(c) * * *

(d) [12] Whenever the President determines that the prevention of improper currency transactions [13] in a given country requires it, he may direct the chief of the United States diplomatic mission there to issue regulations applicable to members of the Armed Forces and officers and employees of the United States Government, and to contractors with the United States Government and their employees, governing the extent to which their pay and allowances received and to be used in that country shall be paid in local currency. Notwithstanding any other law, United States Government agencies are authorized and directed to comply with such regulations.

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Sec. 536.[14] **Joint Commission on Rural Reconstruction in China.**—The President is authorized to continue to participate in the Joint Commission on Rural Reconstruction in China and to appoint citizens of the United States to the Commission.

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[11] 22 U.S.C. 1766.

[12] 22 U.S.C. 1783(d). Sec. 401(f) of Public Law 86-472 (74 Stat. 139) added subsec. (d).

[13] Section 707 of the FA Act of 1961 substituted the words "prevention of improper currency transactions" in lieu of "achievement of United States foreign policy objectives".

[14] 22 U.S.C. 1796.

d. Use of Foreign Currencies [1]

(1) 31 U.S.C. 1306 [2]

Sec. 1306. Use of foreign credits

Foreign credits owed to or owned by the Treasury are not available for expenditure by agencies except as provided annually in general appropriation laws.

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> NOTE.—Executive Order No. 10488 of September 23, 1953, 18 F.R. 5699, authorizes the Secretary of the Treasury to issue regulations governing the purchase, custody, transfer or sale of foreign exchange by agencies of the United States. See also sec. 519 of the Department of Defense Appropriation Act, 1969, Public Law 90-580, 82 Stat. 1120, 1133.

(2) General Government Matters Appropriation Act, 1962

Partial text of Public Law 87-125 [H.R. 7577] 75 Stat. 268, 283, approved August 3, 1961

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TITLE V—GENERAL PROVISIONS

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Sec. 508. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662),[2] foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits),[3] only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided*, That such credits received as exchange allowances or proceeds of sales of personal property may be used in whole or in part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the

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[1] For text on Use of Local Currencies, see sec. 40 of the FA Act of 1973 (Public Law 93-189, 87 Stat. 714), and sec. 502 of the Mutual Security Act of 1954, as amended (Public Law 83-665, 68 Stat. 832), pages 491 and 597, respectively.

[2] Sec. 1306, title 31, was originally enacted as sec. 1415 of the Supplemental Appropriation Act, 1953, and codified at 31 U.S.C. 724. Public Law 97-258 (96 Stat. 877) revised and recodified title 31, including changes to the text and U.S. Code citation to this provision.

[3] The words "and for liquidation of obligations legally incurred against such credits prior to July 1, 1953" appeared at this point in previous General Government Matters Appropriation Acts, 1956-1959, and the Supplemental Appropriations Act, 1955.

Treasury: *Provided further,* That nothing in section 1415 of the Act of July 15, 1952, or in this section shall be construed to prevent the making of new or the carrying out of existing contracts, agreements, or executive agreements for periods in excess of one year, in any case where such contracts, agreements, or executive agreements for periods in excess of one year were permitted prior to the enactment of this Act under section 32(b)(2) of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1641(b)(2)), and the performance of all such contracts, agreements, or executive agreements shall be subject to the availability of appropriations for the purchase of credits as provided by law.

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(3) Use of Reserved Coins and Currencies of Foreign Countries [1, 4]

Title 31, U.S.C. * * *

§ 5303. Reserved coins and currencies of foreign countries

An agency may use coins and currencies of a foreign country the United States Government holds that are or may be reserved for a specific program or activity of an agency. The agency shall reimburse the Treasury from appropriations and shall replace the coins and currencies when they are needed for the program or activity for which they were reserved originally.

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[4] Sec. 5303, title 31, was originally enacted as Public Law 89-677 (80 Stat. 955) and codified at 31 U.S.C. 938. Public Law 97-258 (96 Stat. 877) revised and recodified title 31, including changes to the text and U.S. Code citation to this provision.

e. Merchant Marine Act of 1936, as amended

Act of June 29, 1936, Chapter 858 [H.R. 8355] 49 Stat. 1985, as amended

AN ACT To further the development and maintenance of an adequate and well- balanced American merchant marine, to promote the commerce of the United States, to aid in the national defense, to repeal certain former legislation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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Sec. 901. * * *

(b) [1] (1) [2] Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or agencies shall take such steps as may be necessary and practicable to assure that at least 50 per centum of the gross tonnage of such equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers), which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels, in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographic areas: *Provided,* That the provisions of this subsection may be waived whenever the Congress by concurrent resolution or otherwise, or the President of the United States, or the Secretary of Defense declares that an emergency exists justifying a temporary waiver of the provisions of section 901(b)(1) [3] and so notifies the appropriate agency or agencies: *And provided further,* That the provisions of this subsection shall not apply to cargoes carried in vessels of the Panama Canal Company. Nothing herein shall repeal or otherwise modify the provisions of Public Resolution Numbered 17, Seventy-third Congress (48 Stat. 500) [4] as amended." [5] For purposes of this section, the term "privately owned United States-flag commercial vessels" shall not be deemed to include any vessel which, subsequent to the date of enactment of this amendment, shall have been either (a) built outside the United States, (b) rebuilt outside the United States, or (c) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of three years: *Provided, however,* That the provisions of this amendment shall not apply where, (1) prior to the enactment of this amendment, the owner of a vessel, or contractor for the purchase of a vessel, originally constructed in the United States and rebuilt abroad or contracted to be rebuilt abroad, has notified the Maritime Administration in writing of its intent to document such vessel under United States registry, and such vessel is so documented on its first arrival at a United States port not later than one year subsequent to the date of the enactment of this amendment, or (2) where prior to the enactment of this amendment, the owner of a vessel under United States registry has made a contract for the rebuilding abroad of such vessel and has notified the Maritime Administration of such contract, and such rebuilding is completed and such vessel is thereafter documented under United States registry on its first arrival at a United States port not later than one year subsequent to the date of the enactment of this amendment.[6]

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[1] Public Law 83-664 (68 Stat. 832) added subsec. (b).

[2] Sec. 27(a) of Public Law 91-469 [Merchant Marine Act of 1970] redesignated subsec. (b) as subsec. (b)(1).

[3] Sec. 27(b) of Public Law 91-469 substituted "section 901(b)(1)" in lieu of "section 901(b)".

[4] 15 U.S.C. 616a.

[5] See also sec. 603 of the FA Act of 1961, page 183.

(2)[7] Every department or agency having responsibility under this subsection shall administer its programs with respect to this subsection under regulations issued by the Secretary of Transportation.[8] The Secretary of Transportation[8] shall review such administration and shall annually report to the Congress with respect thereto.

Sec. 901a.[9] The requirements of section 901(b)(1) of this Act and the Joint Resolution of March 26, 1934 (46 U.S.C. App. 1241-1), shall not apply to any export activities of the Secretary of Agriculture or the Commodity Credit Corporation—

(1) under which agricultural commodities or the products thereof acquired by the Commodity Credit Corporation are made available to United States exporters, users, processors, or foreign purchasers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or the products thereof at prevailing world market prices;

(2) under which payments are made available to United States exporters, users, or processors or, except as provided in section 901b, cash grants are made available to foreign purchasers, for the purpose described in paragraph (1);

(3) under which commercial credit guarantees are blended with direct credits from the Commodity Credit Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or the products thereof;

(4) under which credit or credit guarantees for not to exceed 3 years are extended by the Commodity Credit Corporation to

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[6] The last part of this subsection, beginning with the words "For purposes of this section," was added by Public Law 87-266.

[7] Sec. 27(c) of Public Law 91-469 added subsec. (2).

[8] The references to the Secretary of Transportation were substituted in lieu of references to the Secretary of Commerce by sec. 12(126) of Public Law 97-31 (95 Stat. 165).

[9] 46 U.S.C. app. 1241e. Sec. 1142 of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1490), added secs. 901a thru 901k.

finance or guarantee export sales of United States agricultural commodities or the products thereof; or

(5) under which agricultural commodities or the products thereof owned or controlled by or under loan from the Commodity Credit Corporation are exchanged or bartered for materials, goods, equipment, or services, but only if such materials, goods, equipment, or services are of a value at least equivalent to the value of the agricultural commodities or products exchanged or bartered therefor (determined on the basis of prevailing world market prices at the time of the exchange or barter), but nothing in this subsection shall be construed to exempt from the cargo preference provisions referred to in section 901b any requirement otherwise applicable to the materials, goods, equipment, or services imported under any such transaction.

SHIPMENT REQUIREMENTS FOR CERTAIN EXPORTS SPONSORED BY THE DEPARTMENT OF AGRICULTURE

Sec. 901b.[9, 10] (a)(1) In addition to the United States requirement for flag carriage of a percentage of gross tonnage imposed by section 901(b)(1) of this Act, 25 percent of the gross tonnage of agricultural commodities or the products thereby specified in subsection (b) shall be transported on United States-flag commercial vessels.

(2) In order to achieve an orderly and efficient implementation of the requirement of paragraph (1)—

(A) an additional quantity equal to 10 percent of the gross tonnage referred to in paragraph (1) shall be transported in United States-flag vessels in calendar year 1986;

(B) an additional quantity equal to 20 percent of the gross tonnage shall be transported in such vessels in calendar year 1987; and

(C) an additional quantity equal to 25 percent of the gross tonnage shall be transported in such vessels in calendar year 1988 and in each calendar year thereafter.

(b) This section shall apply to an export activity of the Commodity Credit Corporation or the Secretary of Agriculture—

(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(3) carried out under the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1);

(4) under which agricultural commodities or the products thereof are—

(A) donated through foreign governments or agencies, private or public, including intergovernmental organizations; or

(B) sold for foreign currencies or for dollars on credit terms of more than ten years;

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[10] 46 U.S.C. app. 1241f.

(5) under which agricultural commodities or the products thereof are made available for emergency food relief at less than prevailing world market prices;

(6) under which a cash grant is made directly or through an intermediary to a foreign purchaser for the purpose of enabling the purchaser to obtain United States agricultural commodities or the products thereof in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at United States port; or

(7) under which the agricultural commodities owned or controlled by or under loan for the Commodity Credit Corporation are exchanged or bartered for materials, goods, equipment, or services produced in foreign countries, other than export activities described in section 901a (5).

(c)(1) The requirement for United States-flag transportation imposed by subsection (a) shall be subject to the same terms and conditions as provided in section 901(b) of this Act.

(2)(A) In order to provide for effective and equitable administration of the cargo preference laws the calendar year for the purpose of compliance with minimum percentage requirements shall be for 12 month periods commencing April 1, 1986.

(B) In addition, the Secretary of Transportation, in administering this subsection and section 901(b), and consistent with these sections shall take such steps as may be necessary and practicable without detriment to any port range to preserve during calendar years 1986, 1987, 1988, and 1989 the percentage share, or metric tonnage of bagged, processed, or fortified commodities, whichever is lower, experienced in calendar year 1984 as determined by the Secretary of Agriculture, of waterborne cargoes exported from Great Lake ports pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

(d) As used in subsection (b), the term "export activity" does not include inspection or weighing activities, other activities carried out for health or safety purposes, or technical assistance provided in the handling of commercial transactions.

(e)(1) The prevailing world market price as to agricultural commodities or the products thereof shall be determined under section 901a through 901d in accordance with procedures established by the Secretary of Agriculture. The Secretary shall prescribe such procedures by regulation, with notice and opportunity for public comment, pursuant to section 553 of title 5, United States Code.

(2) In the event that a determination of the prevailing world market price of any other type of materials, goods, equipment, or service is required in order to determine whether a barter or exchange transaction is subject to subsection (b)(6) or (b)(7), such determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate Federal agencies.

MINIMUM TONNAGE

Sec. 901c.[9, 11] (a)(1) For fiscal year 1986 and each fiscal year thereafter, the minimum quantity of agricultural commodities to be exported under programs subject to section 901b shall be the average of the tonnage exported under such programs during the base period defined in subsection (b), discarding the high and low years.

(2) The President may waive the minimum quantity for any fiscal year required under paragraph (1) if he determines and reports to the Congress, together with his reasons, that such quantity cannot be effectively used for the purposes of such programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons which include the unavailability of funds.

(b) The base period utilized for computing the minimum tonnage quantity referred to in subsection (a) for any fiscal year shall be the five fiscal years beginning with the sixth fiscal year preceding such fiscal year and ending with the second fiscal year preceding such fiscal year.

FINANCING OF SHIPMENT OF AGRICULTURAL COMMODITIES IN UNITED STATES-FLAG VESSELS

Sec. 901d.[9, 12] (a) The Secretary of Transportation shall finance any increased ocean freight charges incurred in any fiscal year which result from the application of section 901b.

(b) If in any fiscal year the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Department of Agriculture and the Commodity Credit Corporation on exports of agricultural commodities and products thereof under the agricultural export programs specified in section 901b(b) exceeds 20 percent of the value of such commodities and products and the cost of such ocean freight and ocean freight differential on which obligations are incurred by such Department and Corporation during such year, the Secretary of Transportation shall reimburse the Department of Agriculture and the Commodity Credit Corporation for the amount of such excess. For the purpose of this subsection, commodities shipped from the inventory of the Commodity Credit Corporation shall be valued as provided in section 403(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(b)).

(c) For the purpose of meeting those expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue to the Secretary of the Treasury such obligations in such forms and denominations, bearing such maturities and subject to such terms and conditions, as may be prescribed by the Secretary of Transportation with the approval of the Secretary of the Treasury. Such obligations shall be at a rate of interest as determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable

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[11] 46 U.S.C. app. 1241g.

[12] 46 U.S.C. app. 1241h.

to the average maturities of such obligations during the month preceding the issuance of such obligations of the Secretary of Transportation. The Secretary of the Treasury shall purchase any obligations of the Secretary of Transportation issued under this subsection and, for the purpose of purchasing such obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, after the date of the enactment of this Act and the purposes for which securities may be issued under such chapter are extended to include any purchases of the obligations of the Secretary of Transportation under this subsection. All redemptions and purchases by the Secretary of the Treasury of the obligations of the Secretary of Transportation shall be treated as public-debt transactions of the United States.

(d) There is authorized to be appropriated annually for each fiscal year, commencing with the fiscal year beginning October 1, 1986, an amount sufficient to reimburse the Secretary of Transportation for the costs, including administrative expenses and the principal and interest due on the obligations to the Secretary of the Treasury incurred under this section. Reimbursement of any such costs shall be made with appropriated funds, as provided in this section, rather than through cancellation of notes.

(e) Notwithstanding the provisions of this section, in the event that the Secretary of Transportation is unable to obtain the funds necessary to finance the increased ocean freight charges resulting from the requirements of subsections (a) and (b) and section 901b(a), the Secretary of Transportation shall so notify the Congress within 10 working days of the discovery of such insufficiency.

AUTHORIZATION OF APPROPRIATIONS

Sec. 901e.[9, 13] There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 901a through 901k.

TERMINATION OF SECTIONS 901a THROUGH 901k

Sec. 901f.[9, 14] The operation of section 901a through 901k shall terminate 90 days after the date on which a notification is made pursuant to section 901d(e), except with respect to shipments of agricultural commodities and products subject to contracts entered into before the expiration of such 90-day period, unless within such 90-day period the Secretary of Transportation proclaims that funds are available to finance increased freight charges resulting from the requirements of sections 901b (a) and 901d (a) and (b). In the event of termination under this section, nothing in sections 901a through 901d shall be construed as exempting export activities from or subjecting export activities to the cargo preference laws except to the extent those activities are exempt under section 4(b) of Public Law 95-501 (7 U.S.C. 1707a(b)). In the event of termination under this section, the 50 percent requirement in section 901(b) of the Merchant Marine Act, 1936 shall be in full effect.

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[13] 46 U.S.C. app. 1241i.

[14] 46 U.S.C. app. 1241j.

NATIONAL ADVISORY COMMISSION ON AGRICULTURAL EXPORT TRANSPORTATION POLICY

Sec. 901g.[9, 15] (a) There is hereby established an advisory commission to be known as the National Advisory Commission on Agricultural Export Transportation Policy (hereafter in this section through section 901j referred to as the "Commission").

(b)(1) The Commission shall be composed of 16 members.

(2) Eight members of the Commission shall be appointed by the President.

(3) The chairman and ranking minority members of the Senate Committee on Agriculture, Nutrition, and Forestry, of the Subcommittee on Merchant Marine of the Senate Committee on Commerce, Science, and Transportation, of the House Committee on Agriculture, and of the House Committee on Merchant Marine and Fisheries shall serve as members of the Commission.

(4)(A) Four of the members appointed by the President shall be representatives of agricultural producers, cooperatives, merchandisers, and processors of agricultural commodities.

(B) The remaining four members appointed by the President shall be representatives of the United States-flag maritime industry, two of whom shall represent labor and two of whom shall represent management.

(c)(1) The members of the Commission shall elect a Chairman from among its members.

(2) Any vacancy in the Commission does not affect its powers but shall be filled in the same manner in which the original appointment was made.

DUTIES OF THE COMMISSION

Sec. 901h.[9, 16] (a) It shall be the duty of the Commission to conduct a comprehensive study and review of the ocean transportation of agricultural exports subject to the cargo preference laws referred to in section 901b and to make recommendations to the President and the Congress for improving the efficiency of such transportation on United States-flag vessels in order to reduce the costs incurred by the United States in connection with such transportation. In carrying out such study and review, the Commission shall consider the extent to which any unfair or discriminatory practices of foreign governments increase the cost to the United States of transporting agricultural commodities subject to such cargo preference laws.

(b)(1) The Commission shall submit an interim report to the President and the Congress not later than one year after the date of the enactment of this subtitle and such other interim reports as the Commission considers advisable.

(2) The Commission shall submit a final report containing its findings and recommendations to the President and the Congress not later than two years after the date of the enactment of this subtitle. The report shall include recommendations for any changes in the provisions of paragraph (1) that would help assure that the

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[15] 46 U.S.C. app. 1241k.

[16] 46 U.S.C. app. 1241l.

cost of ocean freight and ocean freight differential incurred by the Department of Agriculture and the Commodity Credit Corporation on the agricultural export programs specified in section 901b, is not increased above historical levels as a result of the extra demand for United States-flag vessels caused by section 901b.

(3) Sixty days after the submission of the final report, the Commission shall cease to exist.

(c) The Commission shall include in its reports submitted pursuant to subsection (b) recommendations concerning the feasibility and desirability of achieving the following goals with respect to the ocean transportation of agricultural commodities subject to the cargo preference laws referred to in section 901b:

(1) Ensuring that the timing of commodity purchase agreements entered into by the United States in connection with the export of such commodities, and the methods of implementing such agreements, will minimize cost to the United States.

(2) Ensuring that shipments of such commodities are made on the most modern and efficient United States-flag vessels available.

(3) Ensuring that shipments of such commodities are made under the most advantageous terms available, including—

(A) charters for full shiploads;

(B) charters for intermediate or long term;

(C) charters for consecutive voyages and contracts of affreightment; and

(D) adjustment of rates in the event that vessels used for shipments of such commodities also carry cargoes on return voyages.

(4) Reduction and elimination of impediments, including delays in port, to the efficient loading and operation of the vessels employed for shipment of such commodities.

(5) Utilization of open and competitive bidding for the ocean transportation of such commodities.

INFORMATION AND ASSISTANCE TO BE FURNISHED TO THE COMMISSION

Sec. 901i.[9, 17] (a) Each department, agency, and instrumentality of the United States, including independent agencies, shall furnish to the Commission, upon request made by the Chairman, such statistical data, reports, and other information as the Commission considers necessary to carry out its functions.

(b) The Secretary of Agriculture and the Secretary of Transportation shall make available to the Commission such staff, personnel, and administrative services as may reasonably be required to carry out the Commission's duties.

COMPENSATION AND TRAVEL AND SUBSISTENCE EXPENSES OF COMMISSION MEMBERS

Sec. 901j.[9, 18] Members of the Commission shall serve without compensation in addition to compensation they may otherwise be

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[17] 46 U.S.C. app. 1241m.

[18] 46 U.S.C. app. 1241n.

entitled to receive as employees of the United States or as Members of Congress, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission.

DEFINITION OF UNITED STATES FLAG VESSEL ELIGIBLE TO CARRY CARGOES UNDER CERTAIN SECTIONS

Sec. 901k.[9, 19] A United States flag vessel eligible to carry cargoes under sections 901b through 901d means a vessel, as defined in section 3 of title 1, United States Code, that is necessary for national security purposes and, if more than 25 years old, is within five years of having been substantially rebuilt and certified by the Secretary of Transportation as having a useful life of at least five years after that rebuilding.

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[19] 46 U.S.C. app. 1241o.

f. Emergency Security Assistance Act of 1973

Public Law 93-199 [H.R. 11088], 87 Stat. 836, approved December 26, 1973, as amended by Public Law 95-384 [International Security Assistance Act of 1978, S. 3075], 92 Stat. 730 at 747, approved September 26, 1978

AN ACT To provide emergency assistance authorizations for Israel and Cambodia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Security Assistance Act of 1973".

Sec. 2.[1] In addition to such amounts as may be otherwise authorized to be appropriated to the President for security assistance for the fiscal year 1974, there are hereby authorized to be appropriated to the President not to exceed $2,200,000,000 for emergency military assistance or foreign military sales credits, or for both as the President may determine, for Israel, of which sum amounts in excess of $1,500,000,000 may be used pursuant to this section or section 4 of this Act only if the President (1) determines it to be important to our national interest that Israel receive assistance hereunder exceeding $1,500,000,000, and (2) reports to Congress each such determination (if more than one) at least twenty days prior to date on which funds are obligated or expended under this Act in excess of such $1,500,000,000 limitation. The twenty- day requirement contained in the preceding sentence shall not apply if hostilities are renewed in the Middle East. The President shall include in his report the amount of funds to be used pursuant to the determination, the terms of the additional assistance under section 2 or section 4, and the justification for the determination. All information contained in the justification shall be public information except to the extent that the President concludes that publication would be incompatible with the security interests of the United States.

Sec. 3. Military assistance furnished out of funds appropriated under section 2 of this Act shall be furnished in accordance with all of the provisions applicable to military assistance under the Foreign Assistance Act of 1961 (75 Stat. 424; Public Law 87-195), as amended. Foreign military sales credits extended to Israel out of such funds shall be provided on such terms and conditions as the

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[1] FA Appropriation Act, 1974: "$2,200,000,000: *Provided,* That the funds appropriated in this paragraph shall be available only upon enactment into law of authorizing legislation: *Provided further,* That any part of any funds appropriated in this paragraph used to furnish military assistance shall be accounted for in accordance with section 108 of the Mutual Security Appropriation Act, 1956 (69 Stat. 438), as amended: *Provided further,* That of the funds appropriated under this paragraph, not more than $1,500,000,000 may be available for grant military assistance: *Provided further,* That none of the funds appropriated in this paragraph in excess of $1,700,000,000 shall be obligated unless the President determines such obligations will be in the national interest and provides Congress with detailed justifications and notification ten days prior to any such obligation of funds."

The FA Appropriation Act, 1974 required 10 days notification prior to any such obligation of funds.

President may determine and without regard to the provisions of the Foreign Military Sales Act (82 Stat. 1320; Public Law 90-629), as amended.

Sec. 4. At any time prior to June 30, 1974, the President is hereby authorized, within the limits of funds appropriated under section 2 of this Act for Israel, to release Israel from its contractual liability to pay for defense articles and defense services purchased or financed under the said Foreign Military Sales Act or under this Act during the period beginning October 6, 1973, and ending June 30, 1974, and such funds shall be used to reimburse current applicable appropriations, funds, and accounts of the Department of Defense for the value of such defense articles and defense services.

Sec. 5.[2] * * * [Repealed—1978]

Sec. 6. Of the funds appropriated pursuant to section 2, the President may use such sums as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations Emergency Force in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter.

NOTE.—On March 1, 1974, the President signed the following Memorandum (39 F.R. 10417, March 20, 1974):

DELEGATION OF FUNCTIONS AND ALLOCATION OF FUNDS RELATED TO EMERGENCY SECURITY ASSISTANCE FOR ISRAEL

Memorandum for the Secretary of State, the Secretary of Defense

THE WHITE HOUSE,
Washington, March 1, 1974.

You are hereby designated and empowered to exercise the following functions vested in the President by Public Law 93-199, the emergency Security Assistance Act of 1973, without the approval, ratification, or other action of the President.

1. Functions delegated to the Secretary of State:

(a) the function or reporting to the Congress any determination made by the President under Section 2 of the Act;

(b) the function conferred in Section 6 of the Act.

2. Functions delegated to the Secretary of Defense:

The function of providing military assistance or foreign military sales credits as determined by the President.

Pursuant to the authority contained in Public Law 93-240, the Foreign Assistance and Related Programs Appropriation Act, 1974, I hereby allocate from the appropriation for "Energy Security Assistance for Israel" to the Secretary of Defense, $2,200,000,000.00. This allocation is subject to the limitations imposed by the provisos in the provision appropriating these funds and subject to apportionment of the necessary funds by the Office of Management and Budget. I direct the Secretary of Defense to allocate to the Secretary of State such sums from the $2,200,000,000.00 as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations Emergency Force in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter as authorized in Section 6 of Public Law 93-199, the Emergency Security Assistance Act of 1973.

This memorandum shall be published in the Federal Register.

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[2] Sec. 5, which required the Secretary of Defense to submit a report to the Congress on the effectiveness of the foreign military assistance program as it related to the Middle East conflict, was repealed by sec. 29(c)(3) of the International Security Assistance Act of 1978 (92 Stat. 747).

g. Conditions on Arms Sales to Turkey

Partial Text of Public Law 94-104 [S. 2230], 89 Stat. 508, approved October 6, 1975

AN ACT To authorize appropriations for the Board for International Broadcasting for fiscal year 1976; and to promote improved relations between the United States, Greece, and Turkey, to assist in the solution of the refugee problem on Cyprus, and to otherwise strengthen the North Atlantic Alliance.

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Sec. 2. (a)(1) The Congress reaffirms the policy of the United States to seek to improve and harmonize relations among the allies of the United States and between the United States and its allies, in the interest of mutual defense and national security. In particular, the Congress recognizes the special contribution to the North Atlantic Alliance of Greece and Turkey by virtue of their geographic position on the southeastern flank of Europe and is prepared to assist in the modernization and strengthening of their respective armed forces.

(2) The Congress further reaffirms the policy of the United States to alleviate the suffering of refugees and other victims of armed conflict and to foster and promote international efforts to ameliorate the conditions which prevent such persons from resuming normal and productive lives. The Congress, therefore, calls upon the President to encourage and to cooperate in the implementation of multilateral programs, under the auspices of the Secretary General of the United Nations, the United Nations High Commissioner for Refugees, or other appropriate international agencies, for the relief of and assistance to refugees and other persons disadvantaged by the hostilities on Cyprus pending a final settlement of the Cyprus refugee situation in the spirit of Security Council Resolution 361.

(b)(1) In order that the purposes of this Act may be carried out without awaiting the enactment of foreign assistance legislation for fiscal year 1976 programs—

(A) the President is authorized, notwithstanding section 620 of the Foreign Assistance Act of 1961, to furnish to the Government of Turkey those defense articles and defense services with respect to which contracts of sale were signed under section 21 or section 22 of the Foreign Military Sales Act on or before February 5, 1975, and to issue licenses for the transportation to the Government of Turkey of arms, ammunition, and implements of war (including technical data relating thereto): *Provided,* That such authorization shall be effective only while Turkey shall observe the cease-fire and shall neither increase its forces on Cyprus nor transfer to Cyprus any United States supplied implements of war: *Provided further,* That the authorities contained in this section shall not become effective unless and until the President determines and certifies to the

Congress that the furnishing of defense articles and defense services, and the issuance of licenses for the transportation of implements of war, arms and ammunition under this section are important to the national security interests of the United States;

(B) the President is requested to initiate discussions with the Government of Greece to determine the most urgent needs of Greece for economic and military assistance; and

(C) the President is requested to initiate discussions with the Government of Turkey concerning effective means of preventing the diversion of opium poppy into illicit channels.

(2) The President is directed to submit to the Speaker of the House of Representatives and to the Foreign Relations and Appropriations Committee of the Senate within sixty days after the enactment of this Act a report on discussions conducted under subsections (b)(1) (B) and (C), together with his recommendations for economic and military assistance to Greece for the fiscal year 1976.

(c)(1) Section 620(x) of the Foreign Assistance Act of 1961 is amended by striking out all after the word *"Provided,"* and inserting in lieu thereof the following: "That the President is authorized to suspend the provisions of this section and of section 3(c) of the Foreign Military Sales Act only with respect to sales, credits, and guaranties under the Foreign Military Sales Act, as amended, for the procurement of such defense articles and defense services as the President determines and certifies to the Congress are necessary in order to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization. Any such suspension shall be effective only while Turkey shall observe the cease-fire and shall neither increase its forces on Cyprus nor transfer to Cyprus any United States supplied arms, ammunition, and implements of war.".

(2) Section 620(x) of the Foreign Assistance Act of 1961 is further amended by designating the present subsection as paragraph (1) and by adding at the end thereof the following new paragraph:

"(2) The President shall submit to the Congress within sixty days after the enactment of this paragraph, and at the end of each succeeding sixty-day period, a report on progress made during such period toward the conclusion of a negotiated solution of the Cyprus conflict.".

(3) Nothing in this section shall be construed as authorizing (A) military assistance to Turkey under chapter 2 of part II of the Foreign Assistance Act of 1961, or (B) sales, credits, or guaranties to or on behalf of Turkey under the Foreign Military Sales Act for the procurement of defense articles or defense services not determined by the President to be needed for the fulfillment of Turkey's North Atlantic Treaty Organization responsibilities.

(4) Pursuant to the provisions of this section, in the case of any letter of offer to sell any defense article or defense service pursuant to the Foreign Military Sales Act for $25,000,000 or more, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a statement containing (A) a brief description of the defense article or defense service to be offered, (B) the dollar amount of the proposed sale, (C) the United States Armed Force

which is making the sale, and (D) the date on which any letter of offer to sell is to be issued. The letter of offer shall not be issued if the Congress, within twenty calendar days after receiving any such statement, adopts a concurrent resolution stating in effect that it objects to such proposed sale.

(5) This subsection shall become effective only upon enactment of foreign assistance legislation authorizing sales, credits, and guaranties under the Foreign Military Sales Act for fiscal year 1976.[1]

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[1] Such authorization became effective upon enactment of the International Security Assistance and Arms Export Control Act of 1976, Public Law 94-329, 90 Stat. 729, approved June 30, 1976.

h. Vessels for Humanitarian Services

Public Law 97-360 [H.R. 4828], 96 Stat. 1718, approved October 22, 1982; as amended by Public Law 100-151 [Fishermen's Protective Act: Reauthorization; H.R. 2893], 101 Stat. 884, approved November 3, 1987

AN ACT To set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that it is in the national interest to make suitable surplus Government vessels available for use by private nonprofit organizations in providing health education, training, care, and technical assistance as well as other humanitarian services.[1]

Sec. 2. Within ninety days after the enactment of this Act, the Secretary of Transportation shall designate the vessels listed in section 6 as humanitarian service candidates.

Sec. 3. Except as provided in section 4, the vessels listed in section 6 may not be removed from the National Defense Reserve Fleet.

Sec. 4. The vessels listed in section 6 may be removed from the National Defense Reserve Fleet for either of the following reasons:

(a) When the Secretary determines that one or more of the vessels are required for national security purposes, or

(b) Upon the application of LIFE International, a nonprofit corporation organized under the laws of the District of Columbia, the Secretary may transfer one or more of the vessels to LIFE International upon such terms and conditions as he may prescribe.

Sec. 5. During such time as any one of the vessels is in the possession of LIFE International, it shall be operated as an eleemosynary vessel primarily engaged in providing health education, training, care, technical assistance, and other humanitarian services.[1] No such vessel may be used for commercial transportation purposes. In the event that LIFE International no longer requires a vessel for the purposes of this Act, that vessel shall be conveyed back to the United States in as good condition as when received, ordinary wear and tear excepted, to the point of original delivery without cost to the United States.

Sec. 6. This Act shall apply to the following vessels currently held in the National Defense Reserve Fleet:

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[1] Sec. 3(1) of Public Law 100-151 (101 Stat. 884) deleted the words "to the peoples of developing countries" which previously appeared at this point.

United States Ship *General Nelson M. Walker* P2–SE2–R1
United States Ship *Donner* LSD–20
United States Ship *Colonial* LSD–18

Sec. 7. This Act shall expire by its terms on October 22, 1989.[2]

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[2] Sec. 3(2) of Public Law 100–151 (101 Stat. 884) substituted the words "on October 22, 1989" in lieu of the words "five calendar years after the date of enactment".

i. Activities in Nicaragua

(1) Assistance for the Nicaraguan Resistance

Partial text of Public Law 100-463 [Department of Defense Appropriations Act, 1989, H.R. 4781], 102 Stat. 2270, approved October 1, 1988

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United State of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, and for other purposes, namely:

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TITLE VIII

GENERAL PROVISIONS

* * * * * * *

SEC. 8097. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 104 of the Intelligence Authorization Act for fiscal year 1989.[1]

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TITLE IX—ASSISTANCE FOR THE NICARAGUAN RESISTANCE

SEC. 9001. POLICY.

It is the policy of the United States to advance peace and democracy in Central America and to protect American security interests in the region. In pursuing that policy it is the objective of the United States to seek a just and lasting peace for the region in a manner compatible with the Esquipulas Accord of August 7, 1987, the declaration of the Central American presidents at San Jose, Costa Rica, on January 16, 1988, the Sapoa Agreement of March 23, 1988, and United States national security interests in the region.

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[1] Sec. 104 of the Intelligence Authorization Act, Fiscal Year 1989 (Public Law 100-453, 102 Stat. 1905), provided the following:

"RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

"SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance."

SEC. 9002. SPECIAL CONDITIONS WARRANTING EXPEDITED PROCEDURES FOR LEGISLATION CONCERNING TRANSPORTATION OF PREVIOUSLY APPROPRIATED ASSISTANCE HELD IN TITLE BY THE NICARAGUAN RESISTANCE.

If, at any time after enactment of this Act and before the adjournment sine die of the second session of the One Hundredth Congress—

(1) the President finds that the Government of Nicaragua has caused an emergency situation in Central America which is having a critical impact on peace and stability of that region, and

(2) the President has consulted with the presidents of Costa Rica, El Salvador, Honduras, and Guatemala regarding that emergency situation, and

(3) the President submits to the Congress the report described in section 9004(a), and

(4) the President requests the Congress to consider legislation which would authorize the transportation to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance and, if necessary, provide authority for (a) the interchangeability of such assistance with equipment of comparable value and purpose which is owned by the United States, and (b) the transportation of humanitarian and military assistance in the same transportation system, and

(5) the House of Representatives has passed legislation, with or without amendments, with respect to the request under paragraph (4),

then a joint resolution described in section 9013(a)(1), shall be considered in the Senate in accordance with the procedures specified in section 9013 of this title.

SEC. 9003. RESTRICTIONS REGARDING THE EMERGENCY TRANSPORT OF PREVIOUSLY APPROPRIATED ASSISTANCE HELD IN TITLE BY THE NICARAGUAN RESISTANCE.

(a) In General.—This section shall only apply upon the enactment of legislation, considered in the Senate in accordance with section 9013, authorizing the transportation to the Nicaraguan Resistance of previously appropriated assistance not to exceed $16,500,000 held in title by the Nicaraguan Resistance and, if necessary, providing authority for the interchangeability of such assistance with equipment of comparable value and purpose which is owned by the United States.

(b) Funds for Transportation.—(1) There shall be transferred to the Secretary of State from unobligated funds from appropriations accounts specified in section 9011—

(A) such sums as are necessary to carry out the transportation requirements described in subsection (a), but not to exceed $5,000,000; and

(B) such sums as are necessary to provide for the indemnification of aircraft leased with funds transferred under clause (A), but not to exceed $20,000,000.

(2) The Secretary of State shall transfer the balance, if any, remaining of funds transferred under paragraph (1)(B) to the appropriations accounts from which such funds were transferred under such paragraph when the transportation requirements described in subsection (a) have been met.

(c) MONITORING BY CONGRESSIONAL COMMITTEES.—(1) The chairmen and ranking minority members of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall be kept fully and currently informed regarding the transportation or exchange of any assistance described in subsection (a), including the value and purpose of the items transported or exchanged and the costs of such transportation.

(2) For purposes of this subsection, the term "fully and currently informed" includes the provision of all records, data, and other information necessary to carry out the monitoring of activities described in this subsection.

(d) ROLE OF THE SECRETARY OF STATE.—The Secretary of State (or his designee) shall be responsible for support, coordination, and supervision of the transportation of assistance described in subsection (a). Such support shall involve the provision of funds as well as the provision and transportation of materiel and other assistance.

(e) The authority granted by this section expires upon delivering of previously appropriated assistance and interchanged assistance authorized by this section.

SEC. 9004. REPORTS.

(a) PRESIDENTIAL REPORT.—At the time of the submission to the Congress by the President of any request for the authority described in section 9002(4), the President shall submit to the Congress a report containing—

(1) a detailed discussion and substantial evidence of the nature of the emergency situation in or adjacent to Nicaragua caused by actions taken by the Government of Nicaragua having a critical impact on peace and stability of the Central American region,

(2) a description of the recommendations made by the presidents of the Central American democracies consulted in accordance with section 9002(2), and

(3) the justification for the transport to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance,

including specific information pertaining to at least two of the following three actions:

(A) Sandinista initiation of an unprovoked military attack and any other hostile action directed against the forces of the Nicaraguan Resistance, as well as participation or support of any hostile actions against such forces by any other foreign country or organized group;

(B) Other blatant violations of the Esquipulas Accord of August 7, 1987, such as suppression of the media and the internal political opposition, including a denial of its rights to assemble and to hold peaceful demonstrations, and other human rights violations against the people of Nicaragua; and

(C) A continued unacceptable level of military assistance by Soviet-bloc countries, including Cuba.

(b) MONTHLY REPORT BY THE SECRETARY OF STATE.—The Secretary of State shall, not less than once every 30 days after the date of enactment of this Act until the funds provided under this title are expended, submit to the intelligence committees and foreign relations committees of the Congress a report—

(1) describing the conditions in Nicaragua and the use of the funds provided under this title;

(2) a detailed statement of any progress toward a negotiated settlement of the armed conflict in Central America, as agreed to under the Esquipulas Accord of August 7, 1987;

(3) a detailed discussion of United States efforts since the signing of the Sapoa agreement to encourage the Soviet Union to restrict the shipment of Soviet arms to the Government of Nicaragua and specifying Soviet reaction to such efforts;

(4) a discussion reviewing the status of United States national security interests in Central America, with particular attention to the advisability of entering into bilateral negotiations with the Government of Nicaragua concerning—

(A) the termination of the presence of Soviet and Soviet-bloc (including Cuban) military and security advisors in Nicaragua;

(B) the termination of Soviet and Soviet-bloc (including Cuban) assistance to the Government of Nicaragua; and

(C) a prohibition on the establishment or use of bases in Nicaragua by the Soviet Union or any Soviet-bloc country, including Cuba;

(5) a description of United States diplomatic efforts in support of the Esquipulas Accord of August 7, 1987, and the Sapoa Agreement of March 23, 1988, and an analysis of the actions taken by the Nicaraguan Resistance and the Government of Nicaragua to negotiate a settlement under the provisions of these agreements;

(6) an evaluation of the effect that additional military assistance for the Nicaraguan Resistance would have on political and economic stability in Honduras, Costa Rica, and El Salvador, as well as how such assistance would advance the process of negotiation and political settlement in Nicaragua;

(7) a description of the progress made by economic development programs that have been implemented in Honduras, El Salvador, and Costa Rica since the Esquipulas Accord of August 7, 1987, was signed and what effect renewed fighting in Nicaragua would have on these programs; and

(8) a discussion of the policies of the European allies of the United States and the Latin American democracies (outside Central America) toward Central America, and the extent of their support for and cooperation with United States policies regarding the Nicaraguan Resistance.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "intelligence committees" refers to the Permanent Select Committee on Intelligence of the House of Repre-

sentatives and the Select Committee on Intelligence of the Senate; and

(2) the term "foreign relations committees" refers to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 9005. PROHIBITION.

Except as provided in this title, no additional assistance may be provided to the Nicaraguan Resistance unless the Congress enacts a law specifically authorizing such assistance.

SEC. 9006. ADDITIONAL HUMANITARIAN ASSISTANCE.

(a) TRANSFER OF FUNDS.—The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified in section 9011—

(1) $27,140,000, to provide humanitarian assistance to the Nicaraguan Resistance, to remain available through March 31, 1989, except that funds provided by this subsection shall not be obligated for humanitarian assistance prior to October 1, 1988; and

(2) such funds as may be necessary to provide transportation in accordance with section 9007 for assistance authorized by paragraph (1).

(b) DEFINITION.—For purposes of this section and section 9007, the term "humanitarian assistance" means—

(1) food, clothing, and shelter;

(2) medical services, medical supplies, and nonmilitary training for health and sanitation;

(3) nonmilitary training of the recipients with respect to their treatment of civilians and other armed forces personnel, in accordance with internationally accepted standards of human rights;

(4) payment for such items, services, and training; and

(5) replacement batteries for existing communications equipment.

SEC. 9007. TRANSPORTATION OF HUMANITARIAN ASSISTANCE.

(a) IN GENERAL.—The transportation of humanitarian assistance on or after the date of enactment of this Act which, before such date, was specifically authorized by law to be provided to the Nicaraguan Resistance, or which is authorized to be provided by section 9006, shall be arranged—

(1) in the case of the forces of the Nicaraguan resistance outside Nicaragua, solely by the Agency for International Development; and

(2) in the case of the forces of the Nicaraguan resistance in Nicaragua, solely by the Agency for International Development, acting through the Nicaraguan resistance, the Pan American Development Foundation, or a similar nongovernmental organization, consistent with the provisions of the Sapoa Agreement and any subsequent agreement between the parties to the armed conflict in Nicaragua.

(b) PROHIBITION ON MIXED LOADS.—Transportation of any military assistance, or of any assistance other than that specified in section 9006(b), is prohibited.

SEC. 9008. MEDICAL ASSISTANCE.

There are hereby transferred to the Administrator of the Agency for International Development from unobligated funds from appropriations accounts specified in section 9011, $5,000,000, to be used only for the provision of medical assistance for the civilian victims of the Nicaraguan civil strife to be transported and administered by the Catholic Church in Nicaragua.

SEC. 9009. UNITED STATES POLICY CONCERNING ECONOMIC ASSISTANCE FOR CENTRAL AMERICA.

As part of an effort to promote democracy and address on a long-term basis the economic causes of regional and political instability in Central America—

(1) in recognition of the recommendations of groups such as the National Bipartisan Commission on Central America, the Inter-American Dialogue, and the Sanford Commission,

(2) to assist in the implementation of these economic plans and to encourage other countries in other parts of the world to join in extending assistance to Central America,

(3) and in the context of an agreement to end military conflict in the region,

the Congress encourages the President to submit proposals for bilateral and multilateral action—

(A) to provide additional economic assistance to the democratic countries of Central America to promote economic stability, expand educational opportunity, foster progress in human rights, bolster democratic institutions, and strengthen institutions of justice;

(B) to facilitate the ability of Central American economies to grow through the development of their infrastructure, expansion of exports, and the strengthening of increased investment opportunities;

(C) to provide a more realistic plan to assist Central American countries in managing their foreign debt; and

(D) to develop these initiatives in concert with Western Europe, Japan, and other democratic allies.

SEC. 9010. ECONOMIC INCENTIVES FOR DEMOCRACY IN NICARAGUA SIMILAR TO THOSE AVAILABLE TO CENTRAL AMERICAN DEMOCRACIES.

(a) CONDITION ON TERMINATION OF TRADE EMBARGO AND PROVISION OF RELOCATION ASSISTANCE.—(1) If the Government of Nicaragua and the Nicaraguan Resistance sign a comprehensive final agreement to provide for peace and democracy in Nicaragua, then—

(A) the President shall terminate the trade embargo imposed against Nicaragua by Executive order 12513 [2] of May 1, 1985; and

(B) there shall be transferred to the President from unobligated funds from the appropriations accounts specified in section 9011, $10,000,000, to remain available for a period of twelve months after the signing of the agreement, to provide assistance for the relocation in Nicaragua and the reintegration into Nicaraguan civil society of members of the Nicaraguan Resistance, and the Nicaraguans outside Nicaragua displaced by the conflict.

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[2] For text, see page 695.

(2) Nothing in this section shall be construed to limit the authority of the President under the International Emergency Economic Powers Act.

(b) TRADE BENEFITS.—On or after the date which is 180 days after the date of signing of the agreement described in subsection (a), if the President certifies to the Congress that the Government of Nicaragua is continuing to comply with that agreement, then the President may, notwithstanding any other provision of law—

(1) designate Nicaragua a beneficiary country for purposes of proposals referred to in section 9009 and for purposes of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.);

(2) designate Nicaragua a beneficiary developing country for purposes of title V of the Trade Act of 1974 (relating to the generalized system of preferences); and

(3) authorize loan assistance to Nicaragua under the Export-Import Bank Act of 1945.

(c) INTERPRETATION.—Authority granted by subsections (a) and (b) shall be in addition to, and shall not be construed to limit, authority otherwise available to the President by law.

SEC. 9011. AVAILABLE APPROPRIATIONS ACCOUNTS.

The appropriations accounts referred to in sections 9003(b), 9006, 9008, and 9010(a)(1)(B) are non-ammunition procurement accounts in any of the following:

(1) the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(2) the Department of Defense Appropriations Act, 1987, as contained in section 101(c) of the further continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591); and

(3) the Department of Defense Appropriations Act, 1988, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1988 (Public Law 100-202).

SEC. 9012. PROHIBITION ON THE USE OF CERTAIN FUNDS.

Except as provided in this title, no funds available to any agency or entity of the United States Government under this title may be obligated or expended pursuant to section 502(a)(2) of the National Security Act of 1947 for the purpose of providing funds, materiel, or other assistance to the Nicaraguan Resistance to support military or paramilitary operations in Nicaragua.

SEC. 9013. CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTIONS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "joint resolution" means, except as otherwise provided, only a joint resolution or bill described in section 9002(5) which originated in the House of Representatives and is received in the Senate;

(2) the term "session days" means days on which the Senate is in session.

(b) Referral of Joint Resolution.—A joint resolution referred in the Senate shall be referred to the Committee on Foreign Relations of the Senate.

(c) Committee Action.—(1) If the Committee on Foreign Relations has not reported such joint resolution (or an identical joint resolution) at the end of 3 session days after its introduction, such Committee shall be discharged from further consideration of such joint resolution, and such joint resolution shall be placed on the appropriate calendar of the Senate.

(2) After the Committee on Foreign Relations reports or is discharged from a joint resolution, no other joint resolution with respect to the same matter may be reported by or be discharged from such Committee while the first joint resolution is before the Senate (including remaining on the calendar), a committee of conference, or the President.

(d) Floor Action.—(1) When the Committee on Foreign Relations has reported, or has been discharged under subsection (c) from further consideration of such joint resolution, notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for the Majority Leader, after consultation with the Minority Leader, to move to proceed to the consideration of the joint resolution and, except as provided in paragraph (2) of this subsection (insofar as it relates to germaneness and relevancy of amendments), all points of order against the joint resolution and consideration of the joint resolution are waived. The motion is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall be in order, except that such motion may not be entered for future disposition. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate, to the exclusion of all other business, until disposed of.

(2)(A) Consideration in the Senate of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which, except as otherwise provided in this section, shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or by their designees. The Majority Leader or the Minority Leader or their designees may, from the time under their control on the joint resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(B)(i) Subject to subparagraph (ii), only amendments which are germane and relevant to the joint resolution are in order. Debate on any amendment to the joint resolution shall be limited to 2 hours, except that debate on any amendment to an amendment shall be limited to 1 hour. The time of debate for each amendment shall be equally divided between, and controlled by, the mover of the amendment and the manager of the joint resolution, except that in the event the manager is in favor of any such amendment, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

(ii) It shall be in order for the Majority Leader or the Minority Leader to offer one amendment to strike out the text of the House originated measure and insert in lieu thereof the following text: "That the Congress hereby authorizes the President to transport to the Nicaraguan Resistance all previously appropriated assistance held in title by the Nicaraguan Resistance and provides, if requested, (A) the authority for the interchangeability of the assistance with certain equipment, and (B) the transportation of humanitarian and military assistance in the same transportation system.".

(C) A motion to postpone the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is in order, except that such motion may not be entered for future disposition, and debate on such motion shall be limited to 1 hour.

(3) Whenever all the time for debate on a joint resolution has been used or yielded back, no further amendments may be proposed, and the vote on the adoption of the joint resolution shall occur, except that a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate may occur immediately before such vote.

(4) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate to the procedure relating to a joint resolution shall be limited to one-half hour of debate, equally divided between, and controlled by, the Senator making the appeal and the manager of the joint resolution, except that in the event the manager is in favor of any such appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

(e) RESOLUTION OF DIFFERENCES BETWEEN THE HOUSE AND THE SENATE.—(1)(A) The time for debate in a House of Congress on all motions required for the disposition of amendments between the Houses shall not exceed 2 hours, equally divided between, and controlled by, the mover of the motion and the manager of the joint resolution at each stage of the proceedings between the two Houses, except that in the event the manager is in favor of any such motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee. In the case of any disagreement between the two Houses of Congress with respect to a joint resolution which is not resolved, any Member of Congress may make any motion or motions referred to in this subparagraph within 2 session days after action by the second House or before the appointment of conferees, whichever comes first. In the event the conferees are unable to agree within 72 hours after the second House is notified that the first House has agreed to conference, they shall report back to their respective House in disagreement.

(B) Notwithstanding any rule in either House of Congress concerning the printing of conference reports in the Congressional Record or concerning any delay in the consideration of such reports, such report, including a report filed or returned in disagreement, shall be acted on in the House of Representatives and the Senate not later than 2 session days after the first House files the report or, in the case of the Senate acting first, the report is first made available on the desks of the Senators. Debate in a House of Congress on a conference report or a report filed or returned in disagreement on any such joint resolution shall be limited to 3 hours, equally divided between, and controlled by, the Majority Leader and the Minority Leader, and their designees.

(2) If a joint resolution is vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to 6 hours in each House of Congress, equally divided between, and controlled by, the Majority Leader and the Minority Leader, or their designees.

(f) CONGRESSIONAL RULEMAKING POWERS.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, (insofar as it applies to that House), but applicable only with respect to the procedure to be followed in that House in the case of legislation described in this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 9014. STANDARDS, PROCEDURES, CONTROLS AND OVERSIGHT.

(a) ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROL.—In implementing this title, the Agency for International Development, and any other agency of the United States Government authorized to carry out activities under this title, shall adopt the standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan Resistence [3] provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202),[4] any changes in such standards, procedures, and controls shall be developed and adopted in consultation with the Committees on Intelligence and Foreign Relations pursuant to subsection (b).

(b) CONGRESSIONAL OVERSIGHT.—Oversight within the House of Representatives and the Senate with respect to activities under this title shall be—

(1) with respect to nonlethal assistance, within the jurisdiction of the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate;

(2) with respect to lethal assistance, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate; and

(3) with respect to both lethal and non-lethal assistance, the Committees on Appropriations of the House and Senate.

(c) DEFINITION.—For purposes of subsection (a), the term "intelligence committees of the Congress" refers to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

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[3] Should read "Resistance".

[4] For text, see page 636.

(d) The provisions of the Act of April 1, 1988 (Public Law 100-276) [5] contained in subsections (b), (d), and (e) of section 4 and section 5 shall apply to the provision of assistance under this title except that section 4(d) shall not apply to the Intelligence Community.

(e) AID ADMINISTRATIVE EXPENSES.—There shall be transferred from unobligated funds from appropriations accounts specified in section 9011 not to exceed $4,000,000 to "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out this title.

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[5] Central American Peace Assistance. For text, see page 629.

(2) Central American Peace Assistance

Text of Public Law 100–276 [H.J.Res. 523], 102 Stat. 62, approved April 1, 1988

JOINT RESOLUTION To provide assistance and support for peace, democracy, and reconciliation in Central America.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL POLICY.—It is the policy of the United States to advance peace and democracy in Central America, and to preserve and protect security interests in the region. Pursuant to that policy, it is the purpose of this joint resolution to assist in bringing peace and democracy to Central America, in a manner compatible with the Guatemala Peace Accord of August 7, 1987, the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988, the Agreement Between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua (hereinafter referred to as the "Sapoa Agreement") and consistent with the national security interests of the United States.

SEC. 2. CONSISTENCY WITH SAPOA AGREEMENT.--The assistance and support for which this joint resolution provides shall be administered consistent with the Sapoa Agreement. No authority contained in this joint resolution is intended to be exercised in any manner that might be determined by the Verification Commission established by the Sapoa Agreement to be inconsistent with that Agreement or any subsequent agreement between the Government of Nicaragua and the Nicaraguan democratic resistance.

SEC. 3. PURPOSE OF ADDITIONAL ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE.—(a) CONGRESSIONAL INTENT.—It is the intention of Congress in providing additional assistance to the Nicaraguan democratic resistance to reinforce the Central American peace process by supporting negotiations leading to a permanent negotiated ceasefire agreement. Such an agreement is seen by the Congress as an essential step towards the establishment of peace and democracy in Nicaragua. The Congress provides assistance under this section with the understanding and strong expectation that the Government of Nicaragua and the Nicaraguan democratic resistance will cease permanently offensive military activities against each other and engage in good faith negotiations towards a permanent ceasefire.

(b) TRANSFER AND USE.—(1) The President is authorized to transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide assistance for the Nicaraguan democratic resistance in accordance with this joint resolution. Funds so transferred shall remain available through September 30, 1988.

(2) The amount which is authorized to be transferred under paragraph (1) shall be reduced by the cost to the United States Government of any items or services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e).

(c) DESCRIPTION OF ASSISTANCE ALLOWED.—(1) As used in this section, "assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items or services.

(2) The term "assistance" under this section also includes, to the extent consistent with the Sapoa Agreement, the use of not to exceed $1,500,000 of the funds made available under subsection (b) for the purchase of communications equipment.

(d) LIMITATIONS.—The amount of funds transferred under subsection (b) which is obligated each month for purchasing items and services described in subsection (c)(1)—

(1) for April and May 1988, shall not exceed $2,900,000, of which not less than $400,000 each month shall be available only for medical supplies and medical services; and

(2) for any month thereafter, shall not exceed $2,700,000,

except that each such amount for any month shall be reduced by the cost to the United States Government of the items and services described in subsection (c)(1)) (medical supplies and medical services in the case of the second amount specified in paragraph (1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e) during that month.

(e) TRANSPORTATION.—(1) The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified, in section 6, such funds as may be necessary to provide, to the extent consistent with the Sapoa Agreement, transportation for the assistance authorized by subsection (b), including rental and indemnification of aircraft, trucks or other vehicles, and transportation for the items and services described in paragraph (3) of this subsection.

(2) Transportation provided under this subsection may not be used to deliver any assistance for the Nicaraguan democratic resistance other than the assistance authorized by subsection (b) and the items and services described in paragraph (3) of this subsection.

(3) Transportation may be provided under this subsection for items and services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance.

(f) PROHIBITIONS.—(1) Funds transferred by subsections (b) or (e) may not be obligated or expended to purchase aircraft or weapons, weapons systems, or ammunition or any other item or service not permitted under subsection (c) or to provide any transportation other than transportation permitted under subsection (e).

(2) Except for items delivered under subsection (e)(3), no item authorized by "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public

Laws 99-500 and 99-591)[1] or section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202)[2] may be provided to the Nicaragua democratic resistance.

(g) ASSISTANCE FOR YATAMA.—(1) In order to support all elements of the Nicaraguan democratic resistance, assistance authorized by subsection (b) (including the cost of the United States Government of items and services delivered under subsection (e)(3)) in the amount of $2,190,000 shall be provided only to the Indian resistance force known as Yatama.

(2) The Agency for International Development shall ensure that assistance under this subsection for Yatama is provided consistent with the Preliminary Accord signed by Yatama and the Government of Nicaragua on February 2, 1988, and any subsequent agreement based on that Accord.

SEC. 4. DIRECTION, MANAGEMENT AND DELIVERY.—(a) DELIVERY OF ASSISTANCE.—(1) The Agency for International Development shall direct, manage and provide for the delivery of assistance and support to the Nicaraguan democratic resistance through neutral organizations consistent with the Sapoa Agreement and as authorized by this joint resolution.

(2) The President shall transfer not to exceed $2,500,000 from the unobligated funds in the appropriations accounts specified in section 6 for "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out the purposes of this joint resolution.

(b) INAPPLICABILITY OF CERTAIN PROHIBITIONS.—Prohibitions on the furnishing of foreign assistance to Nicaragua shall not be construed to apply to the provision within Nicaragua of the assistance authorized by this joint resolution.

(c) ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROLS.—In implementing this joint resolution, the Agency for International Development shall adopt standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan democratic resistance provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202).[2]

(d) INTERAGENCY COOPERATION.—All Government agencies shall cooperate with the Agency for International Development to ensure the orderly, effective direction, management, and delivery by the Agency of assistance for the Nicaraguan democratic resistance. Such cooperation shall include detailing to the Agency, on a reimbursable basis, such personnel as the Agency, with the approval of the President, may request.

(e) SUPPLEMENTAL AUTHORITIES.—In addition to the authorities otherwise available by law to the Agency for International Development, in carrying out this joint resolution, the Agency for International Development may exercise the same authorities, including authorities relating to procurement and expenditure of Government funds other than confidential funds, as the agency administering the assistance provided pursuant to section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) [2] could exercise with respect to provision of that assistance.

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[1] For text, see page 645.
[2] For text, see page 636.

SEC. 5. GENERAL AUTHORITIES AND LIMITATIONS.—(a) REQUIREMENTS DEEMED SATISFIED.—The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178),[3] section 8144 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use, consistent with the provisions of this joint resolution, of the funds made available by this joint resolution.

(b) CONTINUATION OF LIMITATIONS.—Sections 203(e), 204(b), 207, 209(b), 209(c), and 216 in "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591),[4] shall apply with respect to funds made available by this joint resolution, except that section 216 shall not apply with respect to personnel of the Agency for International Development or the Department of State.

SEC. 6. DEFENSE APPROPRIATIONS ACCOUNTS.—The appropriations accounts to which this resolution refers are the following accounts in the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190):

(1) Missile Procurement, Army;
(2) Other, Procurement, Army;
(3) Other Procurement, Navy;
(4) Missile Procurement, Air Force;
(5) Aircraft Procurement, Air Force; and
(6) Weapons Procurement, Navy;

except that section 1351 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661) shall apply.

SEC. 7. AUDIT OF FUNDS.—The Comptroller General shall conduct an independent audit of funds expended in the provision of assistance and support under this joint resolution.

SEC. 8. CHILDREN'S SURVIVAL ASSISTANCE.—(a) AUTHORIZATION.—The President shall transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide medical care and other relief for children who are victims of the Nicaraguan civil strife. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help children who have been orphaned, and otherwise provide assistance for children who have been physically injured or displaced by the Nicaraguan civil strife. Priority shall be given to those children with the greatest needs for assistance.

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[3] For text of sec. 104, Public Law 100-178, see page 643. For text of sec. 8144, Public Law 100-202, sec. 101(b), see page 635. For text of sec. 10, Public Law 91-672 (Foreign Military Sales Act Amendments), see page 497. For text of sec. 15(a) of the State Department Basic Authorities Act of 1956, as amended (Public Law 84-885), see vol. II, sec. D.

[4] For text, see page 645.

Funds transferred pursuant to this subsection shall remain available until expended.

(b) USE OF PVO'S AND INTERNATIONAL RELIEF ORGANIZATIONS.—Assistance pursuant to this section shall be provided only through nonpolitical private and voluntary organizations and international relief organizations. Preference in the distribution of such assistance shall be given to organizations presently providing similar services such as the Catholic Relief Services, International Committee of the Red Cross, CARE, United Nations Children's Fund, United Nations High Commissioner for Refugees, Partners of the Americas, and the Pan-American Health Organization.

(c) CHILDREN IN NICARAGUA.—At least one-half of the assistance provided under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua. None of this assistance may be provided to or through the Government of Nicaragua.

SEC. 9. VERIFICATION COMMISSION.—The President shall transfer to the Agency for International Development $10,000,000 of unobligated funds from the appropriations accounts specified in section 6 for periodic payments to support the activities of the Verification Commission established by the Sapoa Agreement. Funds transferred pursuant to this section shall remain available until expended.

(3) Restrictions on Support for Military or Paramilitary Operations in Nicaragua

Partial text of Public Law 100-453 [Intelligence Authorization Act, Fiscal Year 1989, H.R. 4387], 102 Stat. 1904, approved September 29, 1988

AN ACT To authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1989".

* * * * * * *

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

Sec. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated and expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorization referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

(4) Assistance to the Nicaraguan Democratic Resistance

Partial text of Public Law 100-202 [Continuing Appropriations Act, 1988, H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

* * * * * * *

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

Sec. 101.[1] (a) * * *

* * * * * * *

Sec. 101. (b) [1] Such amounts as may be necessary for programs, projects, or activities provided for in the Department of Defense Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

* * * * * * *

TITLE VIII

GENERAL PROVISIONS

* * * * * * *

Sec. 8144. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1988 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 104 of the Intelligence Authorization Act (Public Law 100-178) for fiscal year 1988.

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[1] Sec. 101 of the Continuing Appropriations Act contained the 13 regular appropriations acts, including the Department of Defense Appropriations, an excerpt from which (sec. 8144) is printed here. Secs. 102 through 110 of the Act contained legislation on a variety of other matters. Sec. 111 of the Continuing Appropriations Act concerned assistance to the Nicaraguan Democratic Resistance.

ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 111.[1] (a) There are hereby transferred to the President $3,600,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section, to remain available through February 29, 1988.

(b)(1) The President is authorized to transfer or reprogram $4,500,000 of unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provided transportation of humanitarian and other assistance previously, specifically authorized by law to the Nicaraguan domestic resistance, to remain available through February 29, 1988.

(2)(A) [2] Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended on January 12, 1988 and shall resume thereafter only if, after January 18, 1988, the President determines and certifies to the Congress that—

(i) at the time of such certification no ceasefire is in place that was agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance;

(ii) the failure to achieve the ceasefire described in subparagraph (A)(i) results from the lack of good faith efforts by the Government of Nicaragua to achieve such a ceasefire; and

(iii) the Nicaraguan democratic resistance has engaged in good faith efforts to achieve the ceasefire described in subparagraph (A)(i).

(B) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended during any period in which there is in place a ceasefire described in subparagraph (A)(i), except to the extent, if any, permitted by the agreement governing such ceasefire.

(c)(1) The Department of Defense shall, through February 29, 1988, make available to the department or agency administering this section passive air defense equipment to ensure the safety of transportation provided pursuant to this section.

(2) The Department of Defense shall not charge the department or agency receiving equipment under paragraph (1) for such equipment, and shall bear the risk of loss, damage or deterioration of such equipment during the period of its use under the authority of paragraph (1).

(d)(1) The President is authorized to transfer unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, solely for the indemnification through February 29, 1988, of aircraft leased after the date of enactment of this joint resolution to carry out subsection (b).

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[2] In Presidential Determination No. 88-6 of January 19, 1988, 53 F.R. 1601, the President determined and certified that the conditions listed in clauses (i), (ii) and (iii) had been met.

(2) On March 1, 1988, the President shall transfer the balance, if any, remaining of funds transferred under paragraph (1) to the accounts from which such funds were transferred under paragraph (1).

(e) As used in this section, the term "humanitarian assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items.

(f) The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, fiscal year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 as contained in section 101(b) of this joint resolution, section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a), (b), and (d), and the transfer and use of equipment as provided in subsection (c).

(g) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until February 29, 1988.

(h) Sections 203(e), 204(b), 207, 209(b), 209(c), and 216, and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(i) If, on January 17, 1988, a cease-fire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala peace accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

(j)(1) The President may submit to Congress, no earlier than January 25, 1988, and no later than January 27, 1988, a request in accordance with this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(2) Only if a joint resolution approving a request made pursuant to subsection (j)(1) has been enacted into law, the President may submit to Congress one additional request under this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(3) It is the sense of Congress that any request in accordance with this section should be compatible with the Guatemala peace accord of August 7, 1987, and the decisions reached by the Central American presidents at the meeting on the report of the International Commission of Verification and Followup, and consistent with the national security interests of the United States.

(4) Each request of the President in accordance with this section shall include a detailed statement of the steps that the United States, the Central American nations, and other interested parties have taken in support of the Guatemala peace accord of August 7, 1987, and of any ceasefire agreed to by the Government of Nicara-

gua and the Nicaraguan democratic resistance, as well as a report on any progress made in any bilateral or multilateral talks between the United States and the Government of Nicaragua.

(5) If a request of the President in accordance with this section proposes the transfer of funds, the request shall specify the accounts from which the funds are proposed to be transferred.

(6) For purposes of this section, the term "joint resolution" means only a joint resolution introduced within one day of session after the day of session on which the Congress receives the request submitted by the President pursuant to paragraphs (1) or (2)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to H.J. Res. 395 of the 100th Congress, the Act making continuing appropriations for fiscal year 1988.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint resolution relating to Central America pursuant to H.J. Res. 395 of the 100th Congress.".

(7) Any such joint resolution shall, upon introduction, be referred in the House of Representatives to the appropriate committee or committees.

(8) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (j)(1) has been referred have not reported such joint resolution by the end of February 1, 1988, any committee which has not reported such joint resolution shall be discharged from further consideration thereof on February 2, 1988, and such joint resolution shall be placed on the appropriate calendar of the House.

(9) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (j)(2) has been referred have not reported such joint resolution by the end of ten days of session after such joint resolution was introduced, any committee which has not reported such joint resolution shall be discharged from further consideration thereof and such joint resolution shall be placed on the appropriate calendar of the House.

(10) On February 3, 1988, it is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (j)(1).

(11) It is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (j)(2) at any time after such joint resolution has been on the calendar for a period of five days of session, except that it shall not be in order to consider such joint resolution prior to July 1, 1988.

(12) In the House of Representatives, the vote on final passage of the joint resolution approving a request made pursuant to subsection (j)(1) shall occur no later than February 3, 1988, and the vote on final passage of the joint resolution approving a request made pursuant to subsection (j)(2) shall occur no later than September 30, 1988.

(k)(1) The motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of a joint resolution in accordance with this section is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution and against its consideration are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of.

(2) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(3) An amendment to the joint resolution is not in order.

(4) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(l)(1) A joint resolution described in subsection (j)(6) introduced in the Senate shall be referred to the appropriate committee of the Senate.

(2) If the committee to which is referred a joint resolution described in subsection (j)(6) has not reported such a resolution at the end of February 2, 1988, in the case of a resolution approving a request made pursuant to subsection (j)(1), hereinafter referred to as the first resolution, and at the end of 15 days of session after the introduction of a resolution approving a request made pursuant to subsection (j)(2), hereinafter referred to as the second resolution, such committee shall be discharged from further consideration of any such joint resolution. The second such resolution may not be reported before the eighth day of session after its introduction.

(3)(A) When the committee to which a resolution is referred has reported, or has been discharged (under paragraph (2)) from further consideration of, a resolution described in subsection (j)(6), notwithstanding any rule or precedent of the Senate, including rule 22, it is in order only on February 4, 1988, in the case of the first, and any time in July, August, or September 1988, in the case of the second (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is not debatable. The motion is not subject to a motion to postpone. A yea and nay vote shall occur on the motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between the majority and the minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of debate on a resolution described in subsection (j)(6), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in subsection (j)(6) shall be decided without debate.

(E) The vote on passage of the first such joint resolution in the Senate shall occur no later than 10 p.m., February 4, 1988, and on the second such joint resolution not before July 1, 1988, and no later than 10 p.m., September 30, 1988.

(4) If, before the passage by the Senate of a resolution of the Senate described in subsection (j)(6), the Senate receives from the House of Representatives a resolution described in subsection (j)(6), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a resolution described in subsection (j)(6) in the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

(ii) the vote on passage shall be on the resolution of the House.

(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(5) If the Senate receives from the House of Representatives a resolution described in subsection (j)(6) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.

(m)(1) Section 215 in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), and subsections (p), (s), and (t) of section 722 of the International Security and Development Cooperation Act of 1985 are hereby repealed, and the provisions of section 8066 of the Department of Defense Appropriations Act, 1985, as contained in Public Law 98-473, shall not apply to any request for assistance to the Nicaraguan democratic resistance.

(2) Subsections (j)-(l) are enacted—

(A) as an exercise in the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

(3) As used in this subsection, the term "day of session" means a day on which the respective House is in session.

* * * * * * *

(5) Sense of Congress on Introduction of Armed Forces Into Nicaragua—Reaffirmation

Partial text of Public Law 100–180 [National Defense Authorization Act for Fiscal Years 1988 and 1989, H.R. 1748], 101 Stat. 1019, approved December 4, 1987

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE XIV—FOREIGN RELATIONS MATTERS

SEC. 1405. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99–145, 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

* * * * * * *

(6) Restrictions on Support for Military or Paramilitary Operations in Nicaragua

Partial text of Public Law 100-178 [H.R. 2112], 101 Stat. 1009, approved December 2, 1987

AN ACT To authorize appropriations for fiscal year 1988 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1988".

TITLE I—INTELLIGENCE ACTIVITIES

* * * * * * *

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated an expended during fiscal year 1988 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to section 101(a)(1) of the Act making continuing appropriations for the fiscal year 1988 (Public Law 100-120), or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

* * * * * * *

(7) Humanitarian Assistance for Central America

Partial text of Public Law 100–120 [Continuing Appropriations for 1988, H.J. Res. 362], 101 Stat. 789, approved September 30, 1987

JOINT RESOLUTION **Making continuing appropriations for the fiscal year 1988, and for other purposes.**

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1988, and for other purposes, namely:

SEC. 101 (a)(1) Such amounts as may be necessary for programs, projects, and activities which were conducted in the fiscal year 1987, under the current terms and conditions and at a rate for operations not in excess of the current rate, for which provision was made in the following and subsequent appropriations Acts:

* * * * * * *

The Military Construction Appropriations Act, 1987, except for section 206 of such Act: *Provided,* That the authority available as of September 30, 1987, shall be continued to allow the obligation and expenditure of previously appropriated funds in section 206 for supporting, monitoring, and managing the activities provided for under section 206 in fiscal year 1987: *Provided further,* That in order to strengthen and continue the peace process in Central America, not to exceed the current rate of $2,650,000 per month shall be available only for humanitarian assistance and its support, management, and monitoring in accordance with the provisions of title II of the Military Construction Appropriations Act, 1987;

* * * * * * *

(8) Policy toward Government of Nicaragua and the Nicaraguan Democratic Resistance

Partial text of Public Law 99-591 [Section 101(k) of the Continuing Appropriations Act, 1987, H.J. Res. 738] 100 Stat. 3341, approved October 30, 1986, as amended by Public Law 100-202 [Section 111 of the Continuing Appropriations Act, 1988, H.J. Res. 395] 101 Stat. 1329, approved December 22, 1987

JOINT RESOLUTION Making continuing appropriations for the fiscal year 1987, and for other purposes

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:

SEC. 101. * * *

(k) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

* * * * * * *

TITLE II

CENTRAL AMERICA

PURPOSES

SEC. 201. The purposes of this title are to promote economic and political development, peace, stability and democracy in Central America, to encourage a negotiated resolution of the conflict in the region, and towards these ends, to enable the President to provide additional economic assistance for the Central American democracies as well as assistance for the Nicaraguan democratic resistance, subject to the terms and conditions of title.

POLICY TOWARD CENTRAL AMERICA

SEC. 202. (a) It is the policy of the United States that—

(1) the building of democracy, the restoration of peace, economic development, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States,

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be

effectively dealt with to assure a democratic and economically and politically secure Central America; and

(3) the September 1983 Contadora Document of Objectives, which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region, is to be encouraged and supported.

(b) The United States strongly supports as essential to the objectives set forth in subsection (a)—

(1) a long-term commitment of economic assistance to the Central American democracies in amounts recommended by the National Bipartisan Commission on Central America;

(2) national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful, democratic settlement to the Nicaraguan conflict; and

(3) efforts to reach a comprehensive and verifiable final agreement based on the Contadora Document of Objectives, including efforts to encourage the Government of Nicaragua to pursue a dialogue with the representatives of all elements of the Nicaraguan democratic opposition for the purpose of achieving a democratic political settlement of the conflict, including free and fair elections.

POLICY TOWARD THE GOVERNMENT OF NICARAGUA

SEC. 203. (a) United States policy toward the Government of Nicaragua shall be based upon that government's responsiveness to continuing concerns affecting the national security of the United States and Nicaragua's neighbors about—

(1) Nicaragua's close military and security ties to Cuba and the Soviet Union and its Warsaw Pact allies including the presence in Nicaragua of military and security personnel from those countries and allies;

(2) Nicaragua's buildup of military forces in numbers disproportionate to those of its neighbors and equipped with sophisticated weapons systems and facilities designed to accommodate even more advanced equipment;

(3) Nicaragua's unlawful support for armed subversion and terrorism directed against the democratically elected governments of other countries;

(4) Nicaragua's internal repression and lack of opportunity for the exercise of civil and political rights which would allow the people of Nicaragua to have a meaningful voice in determining the policies of their government through participation in regularly scheduled free and fair elections and the establishment of democratic institutions; and

(5) Nicaragua's refusal to negotiate in good faith for a peaceful resolution of the conflict in Central America based upon the comprehensive implementation of the September 1983 Contadora Document of Objectives and, in particular, its refusal to engage in a serious national dialogue with all elements of the Nicaraguan democratic opposition.

(b) The United States will address the concerns described in subsection (a) through economic, political, and diplomatic measures (including efforts to secure the cooperation of other democratic nations in such measures), as well as through support for the Nicaraguan democratic resistance. In order to assure every opportunity for a peaceful resolution of the conflict in Central America, the United States will—

(1) engage in bilateral discussions with the Government of Nicaragua with a view toward facilitating progress in achieving a peaceful resolution of the conflict, if the Government of Nicaragua simultaneously engages in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition; and

(2) limit the types and amounts of assistance provided to the Nicaraguan democratic resistance and take other positive action in response to steps taken by the Government of Nicaragua toward meeting the concerns described in subsection (a).

(c) The duration of bilateral discussions with the Government of Nicaragua and the implementation of additional measures under subsection (b) shall be determined, after consultation with the Congress, by reference to Nicaragua's actions in response to the concerns described in subsection (a). Particular regard will be paid to whether—

(1) freedom of speech, assembly, religion, and political activity are being respected in Nicaragua and progress is being made toward the holding of regularly scheduled free and fair elections;

(2) there has been a halt to the flow of arms and the introduction of foreign military personnel into Nicaragua, and a withdrawal of all foreign military personnel has begun;

(3) a cease-fire with the Nicaraguan democratic resistance is being respected; and

(4) Nicaragua is refraining from acts of aggression, including support for insurgency and terrorism in other countries.

(d) The actions by the United States under this title in response to the concerns described in subsection (a) are consistent with the right of the United States to defend itself and to assist its allies in accordance with international law and treaties in force. Such actions are directed, not to determine the form or composition of any government of Nicaragua, but to achieve a comprehensive and verifiable agreement among Central American countries, based upon the 1983 Contadora Document of Objectives, including internal reconciliation within Nicaragua based upon democratic principles, without the use of force by the United States.

(e) Notwithstanding any other provision of this title, no member of the United States Armed Forces or employee of any department, agency, or other component of the United States Government may enter Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country. Nothing in this title shall be construed as authorizing any member or unit of the Armed Forces of the United States to engage in combat against the Government of Nicaragua.

POLICY TOWARD THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 204. (a) It is the policy of the United States to assist all groups within the Nicaraguan democratic resistance which—

(1) are committed to work together for democratic national reconciliation in Nicaragua based on the document issued by the six Nicaraguan opposition parties on February 7, 1986, entitled "Proposal to the Nicaraguan Government for a solution to the Crisis in Our Country"; and

(2) respect international standards of conduct and refrain from violations of human rights or from other criminal acts,

(b) No assistance under this title may be provided to any group that retains in its ranks any individual who has been found to engage in—

(1) gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961); or

(2) drug smuggling or significant misuse of public or private funds.

(c)(1) It is recognized that the Nicaraguan democratic resistance has been broadening its representative base, through the forging of cooperative relationships between the United Nicaraguan Opposition (UNO) and other democratic resistance elements, and has been increasing the responsiveness of military forces to civilian leadership.

(2) The President shall use the authority provided by this title to further the developments described in paragraph (1) and to encourage the Nicaraguan democratic resistance to take additional steps to strengthen its unity, pursue a defined and coordinated program for representative democracy in Nicaragua, and otherwise increase its appeal to the Nicaraguan people.

(d) In furtherance of the policy set out in this section, not less than $10,000,000 of the funds transferred by section 6(a) shall be available only for assistance to resistance forces otherwise eligible and not currently included within UNO, of which amount $5,000,000 shall be available only for the Southern Opposition Bloc (BOS) and $5,000,000 shall be available only for the Indian resistance force known as Misurasata.

ASSISTANCE FOR THE CENTRAL AMERICAN DEMOCRACIES

SEC. 205. (a) There are hereby transferred to the President for assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) in accordance with the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961; $300,000,000 of unobligated funds from the accounts specified in subsection (b). Amounts transferred under this section shall be administered in accordance with the terms and conditions of chapter 6 of part I of the Foreign Assistance Act of 1961. Notwithstanding any other provision of law, funds made available by this section—

(1) shall be in addition to amounts previously appropriated for the fiscal year 1986 and allocated for assistance to Central American countries, and

(2) shall remain available for obligation until September 30, 1987, except that not less than $100,000,000 shall be obligated on or before September 30, 1986.

(b) Amounts made available by this section shall be transferred from such accounts as the President may designate for which appropriations were made by title II of the Foreign Assistance and Related Programs Appropriations Act, 1986, title IV of the Agriculture, Rural Development and Related Agencies Appropriations Act, 1986, (as contained in Public Law 99-190), and title II of the Urgent Supplemental Appropriations Act, 1985 (Public Law 99-10).

(c)(1) The Secretary of State, the Administrator of the Agency for International Development, and the Director of the Office of Management and Budget, shall—

(A) develop a plan for fully funding the assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) proposed in the January 1984 report of the National Bipartisan Commission on Central America; and

(B) provide a report describing this plan to the President and the Congress no later than March 1, 1987.

(2) The report required by paragraph (1) shall include an analysis and recommendations, prepared in consultation with the Secretary of Agriculture, on how more effective use can be made of agricultural commodities from the United States in alleviating hunger in Central America and contributing to the economic development of the Central American democracies.

(d)(1) There are hereby transferred to the President out of funds appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88), under the heading "Assistance For Implementation of a Contadora Agreement" such sums as the President may require but not more than $2,000,000, to facilitate the participation of Costa Rica, El Salvador, Guatemala, and Honduras in regional meetings and negotiations to promote peace, stability, and security in Central America.

(2) Funds transferred under paragraph (1) shall remain available for the same period of time as such funds would have been available under the Supplemental Appropriations Act, 1985 (Public Law 99-88), but for the enactment of this title.

(e) The Congress reaffirms its support for the establishment of a Central American Development Organization, authorized by section 464 of the Foreign Assistance Act of 1961, as an effective forum for dialogue on, and the continuous review and advancement of, Central America's political, economic, and social development, including the strengthening of democratic pluralism and respect for internationally recognized human rights. Toward this end, not less than $750,000 of the funds transferred by this section should be used to establish the Central American Development Organization and its administrative apparatus so as to ensure that Central American development objectives are encouraged.

ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 206. (a)(1) The Congress hereby approves the provision of assistance for the Nicaraguan democratic resistance in accordance with the provisions of this title.

(2) There are hereby transferred to the President for the purposes of this section $100,000,000 of unobligated funds from such accounts for which appropriations were made by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), as the President shall designate.

(b) Not withstanding the Impoundment Control Act of 1974, not more than 40 percent of the funds transferred under subsection (a) may be available for obligation or expenditure in accordance with this title upon the date of its enactment; not more than an additional 20 percent of such funds may be so available no earlier than October 15, 1986, and 15 days after the transmittal to the Congress of the determination required by section 11(c); and not more than the remaining 40 percent may be so available no earlier than February 15, 1987, and 15 days after the transmittal to the Congress of the determination required by section 11(e).

(c) Funds transferred under subsection (a) shall remain available for the same periods of time, but not to exceed September 30, 1987, as such funds would have been available under the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99–190), but for the enactment of this title.

COORDINATION OF AND ACCOUNTABILITY FOR ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 207. (a) The Secretary of State (or his designee) shall be responsible for policy guidance, coordination, and supervision of United States Government activities under this title.

(b) Any agency to which funds transferred under section 6(a) are allocated shall establish standards, procedures and controls necessary to assure that such funds are fully accounted for and are used exclusively for the purposes authorized by this title. Such standards, procedures and controls shall be developed in consultation with the Comptroller General and the appropriate committees of the Congress, and shall include such safeguards as segregation of accounts, monitoring of deliveries, and requirements for the keeping of complete records available for audit by authorized representatives of the United States Government.

FUNDS FOR HUMANITARIAN ASSISTANCE

SEC. 208. (a) Of the amounts transferred under section 6(a), $30,000,000 shall be available only for the provision of humanitarian assistance to the Nicaraguan democratic resistance.

(b) Of the $30,000,000 made available only for purposes of subsection (a), $3,000,000 shall be available only for strengthening programs and activities of the Nicaraguan democratic resistance for the observance and advancement of human rights.

APPLICATION OF EXISTING LAWS

SEC. 209. (a) Except as otherwise provided in this title, funds transferred under section 6(a) shall be available for the purposes described in section 105(a) of the Intelligence Authorization Act for Fiscal Year 1986, and all the requirements, terms, and conditions of such section and sections 101 and 102 of such Act, section 502 of the National Security Act of 1947, and section 106 of the Supplemental Appropriations Act, 1985 (Public Law 99-88), shall be deemed to have been met for such use of such funds.

(b) The use of funds made available under this title is subject to all applicable provisions of law and established procedures relating to the oversight by the Congress of operations of departments and agencies.

(c) Nothing in this title shall be construed as permitting the President to furnish additional assistance to the Nicaraguan democratic resistance from funds other than the funds transferred under section 6(a) or otherwise specifically authorized by the Congress for assistance to the Nicaraguan democratic resistance.

(d) No limitation or restriction contained in section 10 of Public Law 91-672, section 8109 of the Department of Defense Appropriations Act, 1986, section 502 of the National Security Act of 1947, or any other provision of law shall apply to the transfer or use of funds transferred to the President under this title.

USE OF FUNDS AFTER A PEACEFUL SETTLEMENT

SEC. 210. If the President determines and so reports to the Congress that a peaceful settlement of the conflict in Central America has been reached, then—

(1) the unobligated balance, if any, of funds transferred under section 6(a) shall be available for the purposes of relief, rehabilitation, and reconstruction in Central America countries in accordance with the authorities contained in chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to economic support fund assistance);

(2) the President shall terminate any economic embargo of Nicaragua then in effect; and

(3) the President shall take such further actions as appropriate to carry out the policy described in section 2(a)(1) of this title with respect to all Central American countries, including Nicaragua.

INCENTIVES FOR A NEGOTIATED SETTLEMENT

SEC. 211. (a) Assistance to the Nicaraguan democratic resistance under this title shall be provided in a manner designed to encourage the Government of Nicaragua to respond favorably to the many opportunities available for achieving a negotiated settlement of the conflict in Central America. These opportunities include the following proposals:

(1) Six opposition Nicaraguan political parties on February 7, 1986, called for an immediate cease-fire, an effective general amnesty, abolition of the state of emergency agreement on a new electoral process and general elections, effective fulfillment of international commitments for democratization, and observance of implementation of these actions and commitments by appropriate international groups and organizations;

(2) President Reagan on February 10, 1986, offered simultaneous talks between the Government of Nicaragua and all elements of the Nicaraguan democratic opposition in Nicaragua and between the Government of Nicaragua and the United States Government;

(3) President Jose Napoleon Duarte of El Salvador on March 5, 1986, offered an additional dialogue between the Government of El Salvador and the insurgents in El Salvador if the Government of Nicaragua would simultaneously engage in a

dialogue with all elements of the Nicaraguan democratic opposition; and

(4) The United Nicaraguan Opposition on May 29, 1986, reiterated its support for the six-party proposal described in paragraph (1) as a means to achieve national reconciliation and democratization.

(b)(1) In furtherance of the objectives set forth in subsection (a), and except as provided in subsection (e), assistance to the Nicaraguan democratic resistance under this title shall be limited to the following:

(A) humanitarian assistance (as defined in section 722(g)(5) of the International Security and Development Cooperation Act of 1985);

(B) logistics advice and assistance;

(C) support for democratic political and diplomatic activities;

(D) training, services, equipment and supplies for radio communications, collection, and utilization of intelligence, logistics, and small-unit skills, tactics and operations; and

(E) equipment and supplies necessary for defense against air attacks.

(2) The assistance described in paragraph (1) shall be limited, by type and value, to the matters specified in the classified annex to the communication from the President to the Speaker of the House of Representatives and the President of the Senate dated June 24, 1986.

(3) No weapons or ammunition shall be delivered under this title to the Nicaraguan democratic resistance prior to September 1, 1986.

(c) [1] On and after October 15, 1986, an additional $20,000,000 of the funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity, leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialogue, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance.

(d)(1) Notwithstanding any other provision of this title, on or after October 15, 1986, funds transferred under section 6(a) may be obligated or expended only if the President determines and reports to the Congress that the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement—

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[1] In Presidential Determination No. 87-6 of December 27, 1986, 52 F.R. 2389, the President reported that conditions set forth in subsec. (c) with respect to the provision of assistance to the Nicaraguan democratic resistance had been met.

(A) confederation and reform measures to broaden their leadership base;

(B) the coordination of their efforts;

(C) the elimination of human rights abuses;

(D) the pursuit of a defined and coordinated program for achieving representative democracy in Nicaragua; and

(E) the subordination of military forces to civilian leadership; and

(F) the application of rigorous standards, procedures and controls to assure that funds transferred under section 6(a) are fully accounted for and are used exclusively for the purposes authorized by this title.

(2) In making his determination under paragraph (1), the President shall take into account the effectiveness and legitimacy of the political leadership of those Nicaraguan democratic resistance groups receiving assistance under this title, including the ability of that political leadership—

(A) to reflect the views and objectives of the internal and external Nicaraguan democratic opposition;

(B) to function as the spokesman for the Nicaraguan democratic opposition with central Americans, international organizations, and the United States Government;

(C) to respect the Nicaragua democratic opposition in dealing with the Government of Nicaragua;

(D) to provide command and control for the military forces of all resistance groups receiving assistance under this title and to establish the goals for their military operations;

(E) to determine the distribution of and maintain accountability for assistance provided under this title; and

(F) to provide the legal mechanisms necessary for the enforcement of standards of conduct applicable to all members of the resistance groups receiving assistance under the title.

(e) [2] On and after February 15, 1987, the restrictions in subsection (b) shall cease to apply and the remaining funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech assembly, religion, and political activity leading to regularly

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[2] In Presidential Determination 87-10 of March 5, 1987, 52 F.R. 9107, the President reported that conditions set forth in subsecs. (e)(1), (e)(2) and (e)(3) with respect to provision of assistance to the Nicaraguan democratic resistance had been met.

scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialog, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance,

unless the Congress has enacted a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subsection (b)(1) within the limits of funds previously made available).

(f)(1) Notwithstanding subsection (e), no assistance (other than the assistance described in subparagraphs (A) through (C) of subsection (b)(1) shall be provided at any time to the Nicaraguan democratic resistance under this title if—

(A) the President determines that—

(i) the Central American countries have concluded a comprehensive and effective agreement based on the Contadora Document of Objectives; or

(ii) the Government of Nicaragua is engaging in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; or

(B) the Congress enacts a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subparagraphs (A) through (C) of subsection (b)(1)).

(2) The prohibition contained in paragraph (1) shall not apply—

(A) with respect to assistance described in subparagraph (D) of subsection (b)(1) if the Government of Nicaragua fails to observe an applicable cease-fire; or

(B) with respect to assistance described in subparagraph (E) of subsection (b)(1) if the Government of Nicaragua acquires additional equipment or material to carry out air attacks.

CONGRESSIONAL PRIORITY PROCEDURES

Sec. 212. (a)(1) A joint resolution described in subsection (e) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title II of the Military Construction Appropriations Act, 1987, except as provided in section 11(b) thereof within the limits of funds previously made available.".

(2) A joint resolution described in subsection (f)(1)(B) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title II of the Military Construction Appropriations Act, 1987, except as provided in subparagraphs (A)

through (C) of section 11(b)(1) and paragraph (2) of section 11(f) thereof.".

(b) A joint resolution described in subsection (a)(1) or (a)(2) shall be considered in the House of Representatives and in the Senate in accordance with the provisions of paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473), except that—

(1) reference in such paragraphs to a joint resolution shall be deemed to be references to the respective joint resolution set forth in subsection (a)(1) or subsection (a)(2);

(2) references in such paragraphs to Committee on Appropriations shall be deemed to be references to the appropriate committee or committees of the respective House of Congress; and

(3) references in such paragraphs to the eight day and to fifteen calendar days shall be deemed to be references to the fifth day and to five calendar days, respectively.

(c) The provisions of this section are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under section 11, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

COMMISSION ON CENTRAL AMERICAN NEGOTIATIONS

SEC. 213. (a)(1) There is established the Commission on Central American Negotiations (hereafter in this section referred to as the "Commission"), which shall be composed of five members appointed as follows:

(A) One individual appointed by the Speaker of the House of Representatives;

(B) One individual appointed by the Minority Leader of the House of Representatives;

(C) One individual appointed by the Majority Leader of the Senate;

(D) One individual appointed by the Minority Leader of the Senate; and

(E) One individual who shall serve as Chairman of the Commission, selected by majority vote of the other members of the Commission.

(2) No officer or employee of the United States may be appointed as a member of the Commission.

(3) The appointments referred to in subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be made within 5 calendar days fol-

lowing enactment of this title, and the selection of a chairman referred to in subparagraph (E) of paragraph (1) shall be made within 10 days following enactment of this title.

(b) The purpose of the Commission is to monitor and report on the efforts of the Nicaraguan democratic resistance to coordinate and reform and on the status of any negotiations on the peace, stability, and security of Central America, including negotiations conducted between or among—

(1) the Government of Nicaragua and all elements of the Nicaraguan democratic opposition, including the Nicaraguan democratic resistance;

(2) the governments of Central American countries;

(3) the Government of the United States and the Government of Nicaragua;

(4) the governments of the Contadora and Support Group countries and the governments of the Central American countries; and

(5) the Government of El Salvador and the insurgents in El Salvador.

(c)(1) The Commission may appoint and fix the pay of not more than seven staff personnel, but at such rates not in excess of the rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(2)(A) Each member of the Commission shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which such member is engaged in the performance of duties as a Commission.

(B) While away from his home or regular place of business in the performance of duties for the Commission, a member or staff personnel of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(3) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(d)(1) A majority of the members of the Commission shall constitute a quorum.

(2) All decisions of the Commission shall be by majority vote.

(e) The Commission may make such reports in connection with its duties as it deems necessary to the Speaker of the House of Representative and the chairman of the Committee on Foreign Relations of the Senate, except that—

(1) not later than 5 days after receipt by the Congress or a report by the President under section 14 the Commission shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report addressing all the matters which are required to be included in reports of the President by paragraphs (1), (3), and (4) of section 14; and

(2) not later than September 30, 1986, the Commission shall prepare and transmit to the Congress a report on whether the

Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement measures described in subparagraphs (A) through (F) of section (11)(d)(1) and an evaluation of the factors described in section 11(d)(2).

(f)(1) Salaries and expenses of the Commission, but not more than $400,000, shall be paid from the contingent fund of the Senate out of the Account for Miscellaneous Items, in accordance with the provisions of this section.

(2) Funds made available to the Commission by paragraph (1) shall be disbursed on vouchers approved by the Chairman, except that no voucher shall be required for the disbursement of the salary of an individual appointed under subsection (c).

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such section.

(g) The Commission shall terminate not later than 90 days after transmittal of the reports required by subsection (e).

PRESIDENTIAL REPORTING REQUIREMENT

SEC. 214. The President shall prepare and transmit to the Congress with each determination required by section 11 a report on actions taken to achieve a resolution of the conflict in Central America in a manner that meets the concerns described in section 3(a). Each such report shall include—

(1) a detailed statement of the status of negotiations toward a negotiated settlement of the conflict in Central America, including the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide assistance with the funds transferred under section 6(a) and a detailed statement of how the accountability standards, procedures and controls established under section 7(b) and 11(d)(1)(F) are being implemented so as to assure that all such funds are fully accounted for and are being used exclusively for the purposes authorized by this title;

(3) a discussion of alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) an evaluation of the progress made by the Nicaraguan democratic resistance in broadening its political base and defining a unified and coordinated program for achieving representative democracy in Nicaragua.

REQUESTS FOR ADDITIONAL ASSISTANCE

SEC. 215. [3] * * * [Repealed—1987]

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[3] Sec. 215 was repealed by sec. 111(m)(1) of the Continuing Appropriations for 1988 (Public Law 100-202, 101 Stat. 1329-441). It formerly read as follows:

Continued

LIMITATION ON PARTICIPATION OF UNITED STATES GOVERNMENT PERSONNEL IN DELIVERY OF ASSISTANCE

SEC. 216. (a) United States Government personnel may not provide any training or other service, or otherwise participate directly or indirectly in the provision of any assistance, to the Nicaraguan democratic resistance pursuant to this title within those land areas of Honduras and Costa Rica which are within 20 miles of the border with Nicaragua.

(b) As used in this section, the term "United States Government personnel" means—

(1) any member of the United States Armed Forces who is on active duty or is performing inactive duty training; and

(2) any employee of any department, agency, or other component of the executive branch of the United States Government;

but does not include any officer or employee of the United States General Accounting Office of any employee of the Inspector General of the Department of State and the Foreign Service who is carrying out inspections, investigations, or audits with respect to assistance for the Nicaraguan democratic resistance pursuant to this title.

"The provisions of subsections (s) and (t) of section 722 of the International Security and Development Cooperation Act of 1985 shall apply—

"(1) with respect to any request described in section 722(p) of such Act submitted by the President to the Congress on or after the date of enactment of this title, and

"(2) with respect to any request by the President for additional economic assistance for the Central American democracies to carry out recommendations contained in the report required by section 5(c)(1)(B) (in which case references to a joint resolution in subsections (s) and (t) of section 722 of such Act shall be deemed to be references to a joint resolution without a preamble, the matter after the resolving clause of which is as follows: "That the Congress approves the additional economic assistance for the Central American democracies that the President requested pursuant to title II of the Military Construction Appropriation Act, 1987."), except that, for purposes of consideration in a House of Congress of a joint resolution under subsection (s) or (t) of such section, amendments to such a joint resolution may be in order but only if such amendments are germane."

(9) U.S. Involvement in Military or Paramilitary Operations in Fiscal Year 1987

Partial text of Public Law 99-591 [Section 101(c) of the Continuing Appropriations Act, 1987, H.J. Res. 738], 100 Stat. 3341, approved October 30, 1986

JOINT RESOLUTION Making continuing appropriations for the fiscal year 1987, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:

SEC. 101. * * *

(c) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

* * * * * * *

SEC. 9045. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1987 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 106 of the Intelligence Authorization Act for fiscal year 1987.

(10) Restrictions in Use of Certain Defense Appropriations Accounts to Assist the Nicaraguan Democratic Resistance

Partial text of Public Law 99-661 [National Defense Authorization Act for Fiscal Year 1987, S. 2638], 100 Stat. 3816, approved November 14, 1986

AN ACT To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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PART F—MISCELLANEOUS

SEC. 1351. LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN DEMOCRATIC RESISTANCE

(a) LIMITATION.—Notwithstanding title II of the Military Construction Appropriations Act, 1987, or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).

(b) REPORT.—Before funds appropriated or otherwise made available to the Department of Defense are released to be used for the purpose described in subsection (a), the Secretary of Defense shall submit to Congress a report describing the specific source of such funds.

(11) Restrictions on Support for Military or Paramilitary Operations in Nicaragua

Partial text of Public Law 99-569 [H.R. 4759], 100 Stat. 3190, approved October 27, 1986

AN ACT To authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1987".

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RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 106. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated and expended during fiscal year 1987 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorization referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

(12) Activities in Nicaragua—Fiscal Year 1986

Partial text of Public Law 99-190 [H.J. Res. 465], 99 Stat. 1211, approved December 19, 1985

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1986, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1986, and for other purposes, namely:

* * * * * * *

TITLE VIII—GENERAL PROVISIONS

* * * * * * *

Sec. 8050. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1986 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 105 of the Intelligence Authorization Act (Public Law 99-169) for fiscal year 1986.

(13) Sense of Congress on Introduction of Armed Forces into Nicaragua

Partial text of Public Law 99-145 [S. 1160], 99 Stat. 760, approved November 8, 1985

AN ACT To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(A) SHORT TITLE.—This Act may be cited as the "Department of Defense Authorization Act, 1986."

(b) * * *

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TITLE XIV—GENERAL PROVISIONS

PART E—MISCELLANEOUS PROVISIONS

SEC. 1451. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

It is the sense of Congress that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

(14) Humanitarian Assistance for Nicaraguan Democratic Resistance and Assistance for Implementation of Contadora Agreement

Partial text of Public Law 99-88 [Supplemental Appropriations Act, 1985, H.R. 2577], 99 Stat. 293 at 324, approved August 15, 1985

AN ACT Making supplemental appropriations for the fiscal year ending September 30, 1985, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of the money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1985, and for other purposes, namely:

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CHAPTER V

FOREIGN ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

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HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE

For an additional amount for humanitarian assistance provided to such department or agency of the United States as the President shall designate, except the Central Intelligence Agency or the Department of Defense, to the Nicaraguan democratic resistance, $27,000,000 to remain available for obligation until March 31, 1986. Notwithstanding the Impoundment Control Act of 1974, one-third of the amount appropriated by this paragraph shall be available for obligation upon the enactment of this Act, an additional one-third shall be available for obligation upon submission of the first report required by section 104 of this chapter, and the remaining one-third shall be available for obligation upon submission of the second such report. As used in this paragraph, the term "humanitarian assistance" means the provision of food, clothing, medicine, and other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles or material which can be used to inflict serious bodily harm or death.

ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT

For payment by the Secretary of State for the expenses arising from implementation by the Contadora nations (Mexico, Panama, Colombia, and Venezuela) of an agreement among the countries of Central America based on the Contadora Document of Objectives of September 9, 1983, including peacekeeping, verification, and monitoring systems, $2,000,000, to remain available until expended.

GENERAL PROVISION

Sec. 101. Funds appropriated by this chapter under the headings "HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE" and "ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT" may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956 or any other comparable provisions of law.

Sec. 102. (a) The prohibitions contained in section 8066(a) of the Department of Defense Appropriations Act, 1985 (as contained in section 101 of Public Law 98-473) and section 801 of the Intelligence Authorization Act for Fiscal Year 1985 (Public Law 98-618) shall, without limitation as to fiscal year, apply with respect to funds appropriated by this chapter under the headings "HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE" and "ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT"

(b) Nothing in this Act, section 8066(a) of the Department of Defense Appropriations Act, 1985 (as contained in section 101 of Public Law 98-473), or section 801 of the Intelligence Authorization Act for Fiscal Year 1985 (Public Law 98-618) shall be construed to prohibit the United States Government from exchanging information with the Nicaraguan democratic resistance, or the obligation and expenditure, but only for the purposes for which they are expressly made available, of the funds appropriated by this chapter under the headings "HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE" and "ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT".

Sec. 103. The President is urged—

(1) to vigorously pursue the use of diplomatic and economic steps to resolve the conflict in Nicaragua, including negotiations to—

(A) implement the Contadora Document of Objectives of September 9, 1983; and

(B) at the same time, develop trade and economic measures in close consultation and cooperation with other nations which will encourage the Government of Nicaragua to take the necessary steps to resolve the conflict;

(2) to suspend military maneuvers in Honduras and off Nicaragua's coast, and to lift the embargo on trade with Nicaragua, if the Government of Nicaragua agrees to a cease-fire, to open a dialog with the Nicaraguan democratic resistance and to suspend the state of emergency; and

(3) to resume bilateral discussions with the Government of Nicaragua with a view of encouraging—

(A) a church-mediated dialog between the Government of Nicaragua and the Nicaraguan democratic resistance in support of internal reconciliation, as called for by the Contadora Document of Objectives; and

(B) a comprehensive, verifiable agreement among the nations of Central America based on the Contadora Document of Objectives.

Sec. 104. (a) The President shall submit a report to the Congress every 90 days on the activities carried out in accordance with section 103 and on the assistance provided under the paragraphs of this chapter headed "HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE" and "ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT". Such reports shall describe the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate and the progress of efforts to achieve the objectives set out in paragraph (3) of section 103 and shall provide a detailed accounting of the disbursement of any such assistance.

(b) As part of each of the reports submitted pursuant to subsection (a), the President shall submit to the Permanent Select Committee on Intelligence of the House of Representatives, and to the Select Committee on Intelligence of the Senate, a report on alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua. With respect to the alleged violations the report shall include information on who is responsible for such human rights violations.

ADDITIONAL ASSISTANCE FOR THE CENTRAL AMERICA PEACE PROCESS

Sec. 105. (a) SUBMISSION OF REQUEST.—If the President determines at any time after the enactment of this Act that—

(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have produced an agreement, or show promise of producing an agreement; or

(2) other trade and economic measures will assist in a resolution of the conflict, or to stabilization in the region;

the President may submit to the Congress a request for budget and other authority to provide additional assistance for the furtherance of the Central America peace process.

(b) STATEMENT TO BE INCLUDED.—The President's request shall include a detailed statement as to progress made to resolve the conflict in the region.

(c) CONSULTATION WITH THE CONGRESS.—In formulating a request pursuant to subsection (a), the President shall consult with the Congress.

(d) CONGRESSIONAL ACTION.—(1) The provisions of this subsection apply, during the Ninety-ninth Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (a).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (a)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Central America peace process that the President requested pursuant to the Supplemental Appropriations Act, 1985, notwithstanding section 10 of Public Law 91-672.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint resolution relating to Central America pursuant to the Supplemental Appropriations Act, 1985.".

(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of that joint resolution. The motion is highly privileged and is in order even through a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed 10 hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(6) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(7) This subsection is enacted—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such it is deemed a part of the Rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House, and of the right of the Committee on Rules to report a resolution for the consideration of any measure.

ADDITIONAL ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE

Sec. 106. (a) Submission of Request.—If the President determines at any time after the enactment of this Act that—

(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have failed to produce an agreement; or

(2) other trade and economic measures have failed to resolve the conflict;

the President may submit to the Congress a request for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(b) Statement To Be Included.—The President's request shall include a detailed statement as to why the negotiations or other measures have failed to resolve the conflict in the region.

(c) Consultation With the Congress.—In formulating a request pursuant to subsection (a), the President shall consult with the Congress.

(d) Congressional Action.—(1) The provisions of this subsection apply, during the Ninety-ninth Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (a).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (a)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to the Supplemental Appropriations Act, 1985, notwithstanding section 10 of Public Law 91-672.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint resolution relating to Central America pursuant to the Supplemental Appropriations Act, 1985.".

(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed 10 hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(6) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(7) This subsection is enacted—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such it is deemed a part of the Rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House to change its rules at any time, in the same manner, and to the same extent as in the case of any other Rule of the House, and of the right of the Committee on Rules to report a resolution for the consideration of any measure.

(15) Nicaragua: Congressional Findings, Policy, and Authority for Humanitarian Assistance

Partial text of Public Law 99–83 [International Security and Development Cooperation Act of 1985, S. 960], 99 Stat. 190 at 249, approved August 8, 1985, as amended by Public Law 100–202 [Sec. 111 of the Continuing Appropriations for 1988, H.J. Res. 395] 101 Stat. 1329, approved December 22, 1987

AN ACT To authorize international development and security assistance programs and Peace Corps programs for fiscal years 1986 and 1987, and for other purposes.

Be it enacted by the Senate and House, of Representatives of the United States of America in Congress assembled,

* * * * * * *

SEC. 722. NICARAGUA.

(a) SETTLEMENT OF THE CONFLICT.—The Congress—

(1) strongly supports national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful settlement to the Nicaraguan conflict; and

(2) finds that the United States should, in assisting efforts to reach comprehensive and verifiable final agreements based on the Contadora Document of Objectives, encourage the Government of Nicaragua to pursue a dialogue with the armed opposition forces and their political representatives for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections.

(b) UNITED STATES CONCERNS ABOUT NICARAGUAN FOREIGN AND DOMESTIC POLICIES.—The Congress finds and declares the following:

(1) Despite positive actions by the Congress signaling support for negotiated solutions to conflicts in Central America, there are disturbing trends in Nicaragua's foreign and domestic policies, including—

(A) President Daniel Ortega's April 1985 trip to the Soviet Union at a time when the Congress signaled its strong disapproval of increasing Nicaraguan-Soviet ties;

(B) the Sandinista government's close military ties with Cuba, the Soviet Union, and its Warsaw Pact allies; the disappointing and insufficient reduction of the number of Cuban advisors in Nicaragua by only 100 out of an approximately 2,500; and the continuing military buildup that Nicaragua's neighbors consider threatening;

(C) the Sandinista government's curtailment of individual liberties, political expression, freedom of worship, and the independence of the media;

(D) the subordination of military, judicial, and internal security functions to the ruling political party; and

(E) the Sandinista government's efforts to export its influence and ideology.

(2) If Nicaragua does not address the concerns described in paragraph (1), the United States has several options to address this challenge to peace and stability in the region, including political, diplomatic, and trade sanctions. In addition, the United States—

(A) should through appropriate regional organizations, such as the Organization of American States, seek to maintain multilateral pressure on Nicaragua to address these concerns; and

(B) should, if called upon to do so, give serious consideration to supporting any sanctions adopted by such an organization.

(3) In assessing whether or not progress is being made in addressing these concerns, the Congress will expect prompt and significant initiatives by the Government of Nicaragua such as—

(A) the removal of foreign military advisors from Nicaragua;

(B) the end to Sandinista support for insurgencies in other countries in the region, including the cessation of military supplies to the rebel forces fighting the democratically elected government in El Salvador;

(C) restoration of individual liberties, political expression, freedom of worship, and the independence of the media; and

(D) progress toward internal reconciliation and a pluralistic democratic system, including steps to liberalize institutions in order to allow the internal opposition in Nicaragua to become a viable partner in the Nicaragua political process.

(c) Resolution of the Conflicts in Nicaragua.—

(1) Basis for policy.—The Congress finds that—

(A) the people of Nicaragua are suffering the horrors of a fierce armed conflict that is causing grave hardships and loss of life, has thrown the country into a serious political, social and economic upheaval, and is of serious concern to the nations of the region and to the United States;

(B) this conflict is fundamentally a continuation of efforts of the Nicaraguan people to attain a representative government at peace with its neighbors, efforts which began under the Somoza regime; and

(C) the United States recognized these noble aspirations of the Nicaraguan people in the June 23, 1979, resolution of the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs of the Organization of American States which reads as follows:

"WHEREAS:

"The people of Nicaragua are suffering the horrors of a fierce armed conflict that is causing grave hardships and loss of life, and has thrown the country into a serious political, social and economic upheaval;

"The inhumane conduct of the dictatorial regime governing the country, as evidenced by the report of the Inter-American

Commission on Human Rights, is the fundamental cause of the dramatic situation faced by the Nicaraguan people; and

"The spirit of solidarity that guides Hemisphere relations places an unavoidable obligation on the American countries to exert every effort within their power, to put an end to the bloodshed and to avoid the prolongation of this conflict which is disrupting the peace of the Hemisphere;

"THE SEVENTEENTH MEETING OF CONSULTATION OF MINISTERS OF FOREIGN AFFAIRS,

"DECLARES:

"That the solution of the serious problem is exclusively within the jurisdiction of the people of Nicaragua.

"That in the view of the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs this solution should be arrived at on the basis of the following:

"1. Immediate and definitive replacement of the Somoza regime.

"2. Installation in Nicaraguan territory of a democratic government, the composition of which should include the principal representative groups which oppose the Somoza regime and which reflects the free will of the people of Nicaragua.

"3. Guarantee of the respect for human rights of all Nicaraguans without exception.

"4. The holding of free elections as soon as possible, that will lead to the establishment of a truly democratic government that guarantees peace, freedom, and justice.

"RESOLVES:

"1. To urge the member states to take steps that are within their reach to facilitate an enduring and peaceful solution of the Nicaraguan problem on the bases set forth above, scrupulously respecting the principle of nonintervention and abstaining from any action that might be in conflict with the above bases or be incompatible with a peaceful and enduring solution to the problem.

"2. To commit their efforts to promote humanitarian assistance to the people of Nicaragua and to contribute to the social and economic recovery of the country.

"3. To keep the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs open while the present situation continues.".

(2) THE GOVERNMENT OF NICARAGUA.—The Congress further finds that—

(A) the Government of National Reconstruction of Nicaragua formally accepted the June 23, 1979, resolution as a basis for resolving the Nicaraguan conflict in its "Plan to Achieve Peace" which was submitted to the Organization of American States on July 12, 1979;

(B) The June 23, 1979, resolution and its acceptance by the Government of National Reconstruction of Nicaragua was the formal basis for the removal of the Somoza regime and the installation of the Government of National Reconstruction;

(C) the Government of National Reconstruction, now known as the Government of Nicaragua and controlled by the Frente Sandinista (the FSLN), has flagrantly violated the provisions of the June 23, 1979, resolution, the rights of the Nicaraguan people, and the security of the nations in the region, in that it—

(i) no longer includes the democratic members of the Government of National Reconstruction in the political process;

(ii) is not a government freely elected under conditions of freedom of the press, assembly, and organization, and is not recognized as freely elected by its neighbors, Costa Rica, Honduras, and El Salvador;

(iii) has taken significant steps towards establishing a totalitarian Communist dictatorship, including the formation of FSLN neighborhood watch committees and the enactment of laws that violate human rights and grant undue executive power;

(iv) has committed atrocities against its citizens as documented in reports by the Inter-American Commission on Human Rights of the Organization of American States;

(v) has aligned itself with the Soviet Union and Soviet allies, including the German Democratic Republic, Bulgaria, Libya, and the Palestine Liberation Organization;

(vi) has committed and refuses to cease aggression in the form of armed subversion against its neighbors in violation of the Charter of the United Nations, the Charter of the Organization of American States, the Inter-American Treaty of Reciprocal Assistance, and the 1965 United Nations General Assembly Declaration on Intervention; and

(vii) has built up an army beyond the needs of immediate self-defense, at the expense of the needs of the Nicaraguan people and about which the nations of the region have expressed deepest concern.

(3) THE NICARAGUAN DEMOCRATIC OPPOSITION.—The Congress further finds that—

(A) as a result of these violations, the Government of Nicaragua has lost the support of virtually all independent sectors of Nicaraguan society who initially supported the removal of the Somoza regime (including democratic political parties of the left, center, and right; the leadership of the Church; free unions; and the business, farmer, and professional sectors) and who still seek democracy, reject the rule of the Frente Sandinista, and seek the free elections promised in 1979;

(B) the Nicaraguan political opposition has joined with the armed opposition groups in issuing the San Jose Manifesto of March 1, 1985, calling for a national dialogue under mediation by the Nicaraguan Bishops Conference to peacefully attain the fulfillment of the Government of Nicaragua's commitments to the Organization of American

States, including "the Democratization of Nicaragua, conscious that democracy is the only means to carry out an authentic revolution and secure our national identity and sovereignty";

(C) on June 12, 1985, in San Salvador, El Salvador, the political and armed opposition groups representing the entire democratic political spectrum of Nicaragua formed the Unified Nicaraguan Opposition and affirmed their "historical commitment to achieve for Nicaragua the reconciliation of her children, to establish the foundation for democracy and the moral and material reconstruction of the nation": and

(D) the United Nicaraguan Opposition further declared its intention to "give priority at all times to a political solution which will ease the suffering of our people".

(4) CONCERNS IN THE REGION AND UNITED STATES RESPONSIBILITIES.—The Congress further finds that—

(A) Nicaragua's neighbors, Costa Rica, El Salvador, and Honduras, have expressed, individually and through the Contadora process, their belief that their peace and freedom is not safe so long as the Government of Nicaragua excludes from power most of Nicaragua's political leadership and is controlled by a small sectarian party, without regard to the will of the majority of Nicaraguans; and

(B) the United States, given its role in the installation of the current Government of Nicaragua, has a special responsibility regarding the implementation of the commitments made by that Government in 1979, especially to those who fought against Somoza to bring democracy to Nicaragua with United States support.

(5) RESOLUTION OF THE CONFLICT.—The Congress—

(A) condemns the Government of Nicaragua for violating its solemn commitments to the Nicaraguan people, the United States, and the Organization of American States;

(B) affirms that the Government of Nicaragua will be regarded as having achieved political legitimacy when it fulfills its 1979 commitment to the Organization of American States to implement genuinely democratic elections, under the supervision of the Organization of American States, in which all elements of the Nicaraguan resistance can peacefully participate under conditions recognized as necessary for free elections by international bodies;

(C) urges the Government of Nicaragua to enter a national dialogue, as proposed by the Nicaraguan democratic resistance in San Jose, Costa Rica, on March 1, 1985, under mediation by the Nicaraguan Bishops Conference in order to peacefully resolve the current crisis through internationally recognized elections to which all elements of Nicaraguan society can freely participate.

(D) supports the Nicaraguan democratic resistance in its efforts to peacefully resolve the Nicaraguan conflict and to achieve the fulfillment of the Government of Nicaragua's solemn commitments to the Nicaraguan people, the United States, and the Organization of American States;

(E) supports efforts by the Contadora nations, the Organization of American States, and other appropriate regional organizations to maintain multilateral pressure on Nicaragua to fulfill its commitments; and

(F) requests that the Secretary of State transmit the text of this subsection to the Foreign Ministers of the member states of the Organization of American States.

(d) PROHIBITION RELATING TO MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA.—Nothwithstanding any other provision of law, no funds authorized to be appropriated or otherwise made available by this Act (except the funds authorized to be appropriated in this section), by the Foreign Assistance Act of 1961, or by the Arms Export Control Act shall be used to provide assistance of any kind, either directly or indirectly, to any person or group engaging in an insurgency or other act of rebellion against the Government of Nicaragua. The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under this Act or the purchase of defense articles and services under the Arms Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insurgency or other act of rebellion against the Government of Nicaragua.

(e) LIMITATION ON USE OF FUNDS AGAINST NICARAGUA.—None of the funds authorized to be appropriated in this or any other Act can be used to fund directly, or indirectly, activities against the Government of Nicaragua which have not been authorized by, or pursuant to, law and which would place the United States in violation of our obligations under the Charter of the Organization of American States, to which the United States is a signatory, or under international law as defined by treaty commitments agreed to, and ratified by, the Government of the United States.

(f) FOOD AID TO THE NICARAGUAN PEOPLE.—In cooperation with Cardinal Miguel Obando y Bravo and private and voluntary organizations, the President should explore and promote means for providing food aid to the Nicaraguan people through private and voluntary organizations and the Catholic Church.

(g) HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE.—(1) Effective upon the date of enactment of this Act, there are authorized to be appropriated $27,000,000 for humanitarian assistance to the Nicaraguan democratic resistance. Such assistance shall be provided to such department or agency of the United States as the President shall designate, except the Central Intelligence Agency or the Department of Defense.

(2) The assistance authorized by this subsection is authorized to remain available for obligation until March 31, 1986.

(3) One-third of the assistance authorized by this subsection shall be available for obligation at any time after the appropriation of funds pursuant to such authorization, an additional one-third shall be available for obligation upon submission of the first report required by subsection (j), and the remaining one-third shall be available for obligation upon submission of the second such report.

(4) The President shall establish appropriate procedures to ensure that any humanitarian assistance provided by the United States Government to the Nicaraguan democratic resistance is

used only for the intended purpose and is not diverted (through barter, exchange, or any other means) for acquisition of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

(5) As used in subsection, the term, "humanitarian assistance" means the provision of food, clothing, medicine, and other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

(h) ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT.—Effective upon the date of enactment of this Act, there are authorized to be appropriated $2,000,000, which are authorized to remain available until expended, for payment by the Secretary of State for the expenses arising from implementation by the Contadora nations (Mexico, Panama, Colombia, and Venezuela) of an agreement among the countries of Central America based on the Contadora Document of Objectives of September 9, 1983, including peacekeeping, verification, and monitoring systems.

(i) POLICIES WITH RESPECT TO NICARAGUA.—The President is hereby urged and requested—

(1) to pursue vigorously the use of diplomatic and economic measures to resolve the conflict in Nicaragua, including simultaneous negotiations—

(A) to implement the Contadora Document of Objectives of September 9, 1983; and

(B) to develop, in close consultation and cooperation with other nations, trade and economic measures to complement such policies of the United States and to encourage the Government of Nicaragua to take the necessary steps to resolve the conflict;

(2) to suspend the economic sanctions imposed by the President on May 1, 1985, and the United States military maneuvers in Honduras and off the coast of Nicaragua, if the Government of Nicaragua agrees—

(A) to a cease fire,

(B) to open a dialogue with all elements of the opposition, including the Nicaraguan democratic resistance, and

(C) to suspend the state of emergency in Nicaragua;

(3) to call upon the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) to resume bilateral discussions with the Government of Nicaragua with a view to encouraging—

(A) a church-mediated dialogue between the Government of Nicaragua and all elements of the opposition, including the Nicaraguan democratic resistance, in support of internal reconciliation as called for by the Contadora Document of Objectives; and

(B) a comprehensive, verifiable agreement among the nations of Central America, based on the Contadora Document of Objectives.

(j) REPORTS.—The President shall submit a report to the Congress 90 days after the date of enactment of this Act, and every 90 days thereafter, on any actions taken to carry out subsections (g) and (h). Each such report shall include—

(1) a detailed statement of any progress made in reaching a negotiated settlement referred to in subsection (i)(1), including the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide humanitarian assistance with the funds provided pursuant to subsection (g); and

(3) a discussion of the alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to comply with the request referred to in subsection (i)(3).

(k) SUBMISSION OF REQUEST FOR ADDITIONAL ASSISTANCE FOR THE CENTRAL AMERICA PEACE PROCESS.—If the President determines at any time after the enactment of this Act that—

(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have produced an agreement, or show promise of producing an agreement, or

(2) other trade and economic measures will assist in a resolution of the conflict, or to stabilization in the region,

the President may submit to the Congress a request for budget and other authority to provide additional assistance for the furtherance of the Central America peace process.

(l) STATEMENT TO BE INCLUDED.—The President's request pursuant to subsection (k) shall include a detailed statement as to progress made to resolve the conflict in the region.

(m) CONSULTATION WITH THE CONGRESS.—In formulating a request pursuant to subsection (k), the President shall consult with the Congress.

(n) HOUSE PROCEDURES.—(1) The provisions of this subsection apply, during the 99th Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (k).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (k)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Central America peace process that the President requested pursuant to the International Security and Development Cooperation Act of 1985, notwithstanding section 10 of Public Law 91-672.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint Resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.".

(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by

the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(6) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(o) SENATE PROCEDURES.—A joint resolution which is introduced in the Senate within 3 calendar days after the day on which the Congress receives a Presidential request described in subsection (k) and which, if enacted, would grant the President the authority to take any or all of the actions described in subsection (k) shall be considered in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(1) references in such paragraphs to the Committees on Appropriations of the Senate shall be deemed to be references to the appropriate committee or committees of the Senate; and

(2) amendments to the joint resolution are in order.

(p) [1] * * * [Repealed—1987]

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[1] Subsec. (p) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100-202, 101 Stat. 1329-441). It formerly read as follows:

"SUBMISSION OF REQUEST FOR ADDITIONAL ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE.—If the President determines at any time after the enactment of this Act that—

"(1) negotiations based on the Contadora Document of Objectives of September 9, 1983, have failed to produce an agreement, or

"(2) other trade and economic measures have failed to resolve the conflict the President may submit to the Congress a request for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance."

(q) Statement To Be Included.—The President's request pursuant to subsection (p) shall include a detailed statement as to why the negotiations or other measures have failed to resolve the conflict in the region.

(r) Consultation With the Congress.—In formulating a request pursuant to subsection (p), the President shall consult with the Congress.

(s)[2] * * * [Repealed—1987]

(t)[3] * * * [Repealed—1987]

(u) Congressional Rulemaking Powers.—Subsections (n), (o), (s), and (t) are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to

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[2] Subsec. (s) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100-202, 101 Stat. 1329-441). It formerly read as follows:

"House Procedures.—(1) The provisions of this subsection apply, during the 99th Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (p).

"(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (p)—

"(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to the International Security and Development Cooperation Act of 1985, notwithstanding section 10 of Public Law 91-672.";

"(B) which does not have a preamble; and

"(C) the title of which is as follows: "Joint Resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.".

"(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

"(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

"(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points or order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

"(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

"(C) An amendment to the joint resolution is not in order.

"(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

"(6) As used in this subsection, the term "legislative day" means a day on which the House is in session."

[3] Subsec. (t) was repealed by sec. 111(m)(1) of the Continuing Appropriations Act, 1988 (Public Law 100-202). It formerly read as follows:

"Senate Procedures.—A joint resolution which is introduced in the Senate within 3 calendar days after the day on which the Congress receives a Presidential request described in subsection (p) and which, if enacted, would grant the President the authority to take any or all of the actions described in subsection (p) shall be considered in accordance with procedures contained in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

"(1) references in such paragraphs to the Committees on Appropriations of the Senate shall be deemed to be references to the appropriate committee or committees of the Senate; and

"(2) amendments to the joint resolution are in order."

be followed in the House and the Senate in the case of joint resolutions under this section, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

(16) U.S. Involvement in Military or Paramilitary Operations in Nicaragua—Fiscal Year 1985

Partial text of Public Law 98–473 [Continuing Appropriations Act, 1985, H.J. Res. 648], 98 Stat. 1837 at 1935, approved October 12, 1984

A JOINT RESOLUTION Making continuing appropriations for the fiscal year 1985, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1985, and for other purposes, namely:

Sec. 101. * * *

(h) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriation Act, 1985, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1985, and for other purposes.

* * * * * * *

Sec. 8066. [1] (a) During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose of which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

(b) The prohibition concerning Nicaragua contained in subsection (a) shall cease to apply if, after February 28, 1985—

(1) the President submits to Congress a report—

(A) stating that the Government of Nicaragua is providing materiel or monetary support to anti-government forces engaged in military or paramilitary operation in El Salvador or other Central American countries;

(B) analyzing the military significance of such support;

(C) stating that the President has determined that assistance for military or paramilitary operations prohibited by subsection (a) is necessary;

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[1] Sec. 111(m)(1) of the Continuing Appropriations for 1988 (Public Law 100–202, 101 Stat. 1329–441) provided the following: "* * * the provisions of section 8066 of the Department of Defense Appropriations Act, 1985, as contained in Public Law 98–473, shall not apply to any request for assistance to the Nicaraguan democratic resistance."

(D) justifying the amount and type of such assistance and describing its objectives; and

(E) explaining the goals of United States policy for the Central American region and how the proposed assistance would further such goals, including the achievement of peace and security in Central America through a comprehensive, verifiable and enforceable agreement based upon the Contadora Document of Objectives; and

(2) a joint resolution approving assistance for military or paramilitary operations in Nicaragua is enacted.

(c)(1) For the purpose of subsection (b)(2), "joint resolution" means only a joint resolution introduced after the date on which the report of the President under subsection (b)(1) is received by Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the obligation and expenditure of funds available for Fiscal Year 1985 for supporting, directly or indirectly, military or paramilitary operations in Nicaragua.".

(2) The report described in subsection (b)(1) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(3) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Appropriations of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Appropriations of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(4) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction, such committee shall be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (1), notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate and the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(6) If, before the passage by the Senate of a resolution of the Senate described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

(ii) the vote on final passage shall be on the resolution of the House.

(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(7) If the Senate receives from the House of Representatives a resolution described in paragraph (1) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.

(8) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(d) During Fiscal Year 1985 funds approved by the resolution described in subsection (b)(2) for the purpose of supporting, directly or indirectly, military or paramilitary operations in Nicaragua, shall not exceed $14,000,000.

(17) Activities in Nicaragua—Fiscal Year 1985

Partial text of Public Law 98-618 [H.R. 5399], 98 Stat. 3298 approved November 8, 1984

AN ACT To authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1985".

* * * * * * *

TITLE VIII—ACTIVITIES IN NICARAGUA

MILITARY OR PARAMILITARY ACTIVITIES

Sec. 801. No funds authorized to be appropriated by this Act or by the Intelligence Authorization Act for fiscal year 1984 (Public Law 98-215) may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual, except to the extent provided and under the terms and conditions specified by House Joint Resolution 648, making continuing appropriations for the fiscal year 1985, and for other purposes, as enacted.[1]

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[1] For the pertinent text of H.J. Res. 648, see page 681.

(18) Mining of Nicaraguan Ports

Partial text of Public Law 98–369 [Deficit Reduction Act of 1984, H.R. 4170], 98 Stat. 494 at 1210, approved July 18, 1984

AN ACT To provide for tax reform, and for deficit reduction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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MINING OF NICARAGUAN PORTS

Sec. 2907. It is the sense of the Congress that no funds heretofore or hereafter appropriated in any Act of Congress shall be obligated or expended for the purposes of planning, directing, executing, or supporting the mining of the ports or territorial waters of Nicaragua.

(19) Covert Assistance for Military Operations in Nicaragua—Fiscal Year 1984

Partial text of Public Law 98-215 [Intelligence Authorization Act for Fiscal Year 1984, H.R. 2968], 97 Stat. 1473, approved December 9, 1983

AN ACT To authorize appropriations for fiscal year 1984 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1984".

TITLE I—INTELLIGENCE ACTIVITIES

* * * * * * *

LIMITATION ON COVERT ASSISTANCE FOR MILITARY OPERATIONS IN NICARAGUA

Sec. 108.[1] During fiscal year 1984, not more than $24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

CONGRESSIONAL FINDINGS

Sec. 109. (a) The Congress finds that—

(1) the Government of National Reconstruction of Nicaragua has failed to keep solemn promises, made to the Organization of American States in July 1979, to establish full respect for human rights and political liberties, hold early elections, preserve a private sector, permit political pluralism, and pursue a foreign policy of nonaggression and nonintervention;

(2) by providing military support (including arms, training, and logistical, command and control, and communications facilities) to groups seeking to overthrow the Government of El Salvador and other Central American governments, the Government of National Reconstruction of Nicaragua has violated article 18 of the Charter

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[1] Sec. 775 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212, 97 Stat. 1452) provided the following:

"Sec. 775. During fiscal year 1984, not more than $24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual."

of the Organization of American States which declares that no state has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other state;

(3) the Governments of Nicaragua should be held accountable before the Organization of American States for activities violative of promises made to the Organization and for violations of the Charter of that Organization; and

(4) working through the Organization of American States is the proper and most effective means of dealing with threats to the peace of Central America, of providing for common action in the event of aggression, and of providing the mechanisms for peaceful resolution of disputes among the countries of Central America.

(b) The President should seek a prompt reconvening of the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs of the Organization of American States for the purpose of reevaluating the compliance by the Government of National Reconstruction of Nicaragua—

(1) with the commitments made by the leaders of that Government in July 1979 to the Organization of American States; and

(2) with the Charter of the Organization of American States.

(c) The President should vigorously seek actions by the Organization of American States that would provide for a full range of effective measures by the member states or bring about compliance by the Government of National Reconstruction of Nicaragua with those obligations, including verifiable agreements to halt the transfer of military equipment and to cease furnishing of military support facilities to groups seeking the violent overthrow of governments of countries in Central America.

(d) The President should use all diplomatic means at his disposal to encourage the Organization of American States to seek resolution of the conflicts in Central America based on the provisions of the Final Act of the San Jose Conference of October 1982, especially principles (d), (e), and (g), relating to nonintervention in the internal affairs of other countries, denying support for terrorist and subversive elements in other states, and international supervision of fully verifiable arrangements.

(e) The United States should support measures at the Organization of American States as well as efforts of the Contadora Group, which seek to end support for terrorist, subversive, or other activities aimed at the violent overthrow of the government of countries in Central America.

(f) Not later than March 15, 1984, the President shall report to the Congress on the Results of his efforts pursuant to this Act to achieve peace in Central America. Such report may include such recommendations as the President may consider appropriate for further United States actions to achieve this objective.

* * * * * * *

(20) U.S. Involvement in Military or Paramilitary Operations in Nicaragua—Fiscal Year 1984

Partial text of Public Law 98–212 [H.R. 4185], 97 Stat. 1421, approved December 8, 1983, H.R. 4185

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1984, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1984, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * * * *

TITLE VII

GENERAL PROVISIONS

* * * * * * *

SEC. 775. During fiscal year 1984, not more than $24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expanded for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

(21) U.S. Involvement in Military Activities in Nicaragua—Fiscal Year 1983

Partial text of Public Law 97-377 [Further Continuing Appropriations Act, 1983, H.J. Res. 631], 96 Stat. 1830, approved December 21, 1982

A JOINT RESOLUTION Making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely:

TITLE I

FURTHER CONTINUING APPROPRIATIONS ACT, 1983

Sec. 101. * * *

(c) Notwithstanding any other provision of this joint resolution, such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriation Act, 1983, at a rate of operations and to the extent and in the manner provided, to be effective as if it had been enacted into law as the regular appropriation Act, as follows:

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1983, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * * * *

Sec. 793. None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.

* * * * * * *

(22) Delegating Authority to Provide Assistance for the Nicaraguan Democratic Resistance

Executive Order 12654 of October 7, 1988, 53 F.R. 39890

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including the Department of Defense Appropriations Act, 1989, Public Law 100-463 ("the Act"), Public Law 100-276,[1] the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*), and section 301 of title 3 of the United States Code, and in order to delegate certain functions concerning the designation of amounts to be transferred from specified accounts, the transfer of funds, and related personnel matters, it is hereby ordered as follows:

Section 1. The Secretary of Defense, in consultation with the Administrator of the Agency for International Development, is authorized to perform the functions, vested in the President by Section 9006 of the Act, of transferring unobligated funds from the accounts specified in Section 9011 of the Act.

Sec. 2. The Secretary of Defense is authorized to perform the function of designating the amounts of unobligated funds from accounts specified in Section 9011 of the Act for use as specified in Sections 9006, 9008, and 9014 of the Act.

Sec. 3. The Director of the Office of Management and Budget is authorized to perform the function of approving the detailing of personnel to the Agency for International Development. This authority is vested in the President by Section 4(d) of Public Law 100-276 [1] and made applicable by Section 9014(d) of the Act.

Sec. 4. This Order shall be effective immediately.

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[1] Central American Peace Assistance, 102 Stat. 62. For text, see page 629.

(23) Delegating Authority To Implement Assistance to the Nicaraguan Democratic Resistance

Executive Order 12623 of January 6, 1988, 53 F.R. 487

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 111 of the Joint Resolution Making Continuing Appropriations for the Fiscal Year 1988 (Public Law 100-202) ("the Act"), the Foreign Assistance Act of 1961, as amended (22 U.S. C. 2151 et seq.), and Section 301 of title 3 of the United States Code, and in order to delegate certain functions concerning the designation of funds to be transferred, the transfer of funds and operation of accounts, it is hereby ordered as follows:

Section 1. The Secretary of State is authorized to perform the functions vested in the President by Section 111 of the Act, except the determination and certification pursuant to Section 111(b)(2), except any request for additional assistance pursuant to Section 111(j)(1), and except as provided in Sections 2 and 3 of this Order.

Sec. 2. The Secretary of Defense is authorized to perform the function, vested in the President by Section 111(a) of the Act, of designating the accounts from which unobligated funds, made available by the Department of Defense appropriations acts for the Fiscal Year 1987 or prior fiscal years, are transferred.

Sec. 3. The Secretary of Defense is authorized to perform the functions, vested in the President by Section 111(b)(1) and (d)(1) of the Act, of designating and transferring unobligated funds made available by the Department of Defense appropriations acts for the Fiscal Year 1987 or prior fiscal years.

Sec. 4. The funds described in Sections 2 and 3 of this Order will be transferred to the account for Assistance for the Nicaraguan Democratic Resistance.

(24) Delegating Authority To Implement Assistance for Central American Democracies and the Nicaraguan Democratic Resistance

Executive Order 12570 of October 28, 1986, 51 F.R. 39355

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Military Construction Appropriations Act, 1987, enacted by section 101(k) of the Joint Resolution Making Continuing Appropriations for the Fiscal Year 1987 (Public Law 99-500), the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*), and section 301 of title 3 of the United States Code, and in order to delegate certain functions concerning the designation of funds to be transferred and operation of accounts, it is hereby ordered as follows:

Section 1. Pursuant to section 205, the account for which funds are made available by title III of the Military Construction Appropriations Act, 1987, is designated the account from which funds made available by title II of the Urgent Supplemental Appropriations Act, 1985 (Public Law 99-10) are transferred.

Sec. 2. The Secretary of State is authorized to perform the following functions vested in the President by sections 205 and 206 of title II of the Military Construction Appropriations Act, 1987:

(a) Pursuant to section 205, the authority to designate the account to which funds transferred from the funds appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88), under the heading "Assistance for Implementation of a Contadora Agreement," are deposited, and the amount transferred; and

(b) The authority to implement section 206 utilizing the funds described in section 3 of this Order and funds provided in the Joint Resolution Making Continuing Appropriations for the Fiscal Year 1988 (Public Law 100-120). [1]

Sec. 3. The Secretary of Defense is authorized to perform the function, vested in the President by section 206 title II of the Military Construction Appropriations Act, 1987, of designating the accounts from which unobligated funds, made available by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), are transferred.

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[1] The reference in this subsec. to the Joint Resolution was added by E.O. 12611 of October 15, 1987, 52 F.R. 38743.

(25) Establishment of Nicaraguan Humanitarian Assistance Office

Executive Order 12530 of August 29, 1985, 50 F.R. 36031

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 722 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83) (the Act), Chapter V of the Supplemental Appropriations Act, 1985 (Public Law 99–88) (the Supplemental Act), the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et. seq.*) (the FAA), including but not limited to sections 621, 632, and 633 thereof (22 U.S.C. 2381, 2392, 2393), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

Section 1. Establishment. (a) There is hereby established the Nicaraguan Humanitarian Assistance Office (the Office).

(b) The Office shall, unless otherwise extended, terminate on April 1, 1986, or one week following completion of disbursement of the funds made available under section 722(g) of the Act by Chapter V of the Supplemental Act, whichever date is later.

Sec. 2. Functions. The Office shall, in accordance with the FAA, section 722(g) of the Act, Chapter V of the Supplemental Act, and the provisions of this Order, administer the program of humanitarian assistance to the Nicaraguan democratic resistance authorized thereunder. The Office may, to the extent permitted by law and the provisions of this Order, enter into such grant agreements and contracts and take such other actions as may be necessary to implement the program effectively.

Sec. 3. Policy guidance. In accordance with the FAA, and to the end that such programs and activities are effectively integrated with and supportive of the foreign policy of the United States, the Secretary of State shall be responsible for the continuous supervision and general direction of the programs and activities carried out by the Office.

Sec. 4. Administration. (a) At the head of the Office there shall be a Director, who shall be an officer of the United States designated by the President. The Director shall exercise immediate supervision and direction over the Office.

(b) The Director may, to the extent permitted by law, including but not limited to section 621 of the FAA (22 U.S.C. 2381), employ such staff from Federal agencies as may be necessary, except that the staff shall be limited to twelve supervisory personnel, plus appropriate support personnel. No personnel from the Department of Defense or the Central Intelligence Agency may be detailed or otherwise assigned to the Office.

(c) The Secretary of State shall provide the Office with such administrative services, facilities, and other support as may be necessary for the performance of its functions. Funds made available under section 722(g) of the Act by Chapter V of the Supplemental

Act shall be provided to the Office through the Department of State.

(d) At the request of the Director, and to the extent otherwise permitted by law, the agencies of the Executive Branch shall provide such information, advice, additional administrative services, and facilities as may be necessary for the fulfillment of the Office's functions under this Order.

Sec. 5. Classification Authority. In accordance with section 1.2(a)(2) of Executive Order No. 12356 of April 2, 1982, the Director is hereby designated as an agency official with authority to classify information originally as Top Secret. The Director shall ensure that the Office establishes and maintains controls for the safeguarding of classified information as provided in part 4 of that Order.

Sec. 6. Delegation of Functions. Subject to the provisions of this Order and Executive Order No. 12163 of September 29, 1979, as amended, and to the extent necessary to the efficient and effective implementation of this Order, there are hereby delegated to the Director the functions conferred upon the President (and not reserved to him) by sections 632(a) and 635(a) and 635(b) of the FAA and other provisions of that Act (including but not limited to those set forth in Part III of the FAA) that relate directly and necessarily to the conduct of the programs and activities vested in or delegated to the Director.

Sec. 7. Procurement. (a) In accordance with the provisions of section 633 of the FAA (22 U.S.C. 2393), it is hereby determined to be in furtherance of the purposes of the FAA that the functions authorized thereunder, as set forth in section 2 of this Order, may be performed by the Director without regard to the provisions of law and limitations of authority specified in Executive Order No. 11223 of May 12, 1965, as amended.

(b) It is directed that each specific use of the waivers of statutes and limitations of authority authorized by this section shall be made only when determined in writing by the Director that such use is necessary to the efficient and effective implementation and in furtherance of the purposes of this Order and in the interest of the United States.

Sec. 8. Reports. The Director shall assist the President in preparing the reports required by section 722(j)(2) of the Act, including a detailed accounting of the disbursements made to provide humanitarian assistance with the funds provided pursuant to section 722(g) of the Act. The Director shall keep the President informed about the implementation of the program.

(26) Prohibiting Trade and Certain Other Transactions Involving Nicaragua

Executive Order 12513 [1] of May 1, 1985, 50 F.R. 18629

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), chapter 12 of Title 50 of the United States Code (50 U.S.C. 191 *et seq.)*, and section 301 of Title 3 of the United States Code,

I, RONALD REAGAN, President of the United States of America, find that the policies and actions of the Government of Nicaragua constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.

I hereby prohibit all imports into the United States of goods and services of Nicaraguan origin; all exports from the United States of goods to or destined for Nicaragua, except those destined for the organized democratic resistance, and transactions relating thereto.

I hereby prohibit Nicaraguan air carriers from engaging in air transportation to or from points in the United States, and transactions relating thereto.

In addition, I hereby prohibit vessels of Nicaraguan registry from entering into United States ports, and transactions relating thereto.

The Secretary of the Treasury is delegated and authorized to employ all powers granted to me by the International Emergency Economic Powers act to carry out the purposes of this Order.

The prohibitions set forth in this Order shall be effective as of 12:01 a.m., Eastern Daylight Time, May 7, 1985, and shall be transmitted to the Congress and published in the Federal Register.

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[1] A Presidential Notice for the Continuation of the Nicaraguan Emergency, April 25, 1988, 53 F.R. 15011, extended the national emergency toward Nicaragua beyond May 1, 1988. Previously, the national emergency was extended beyond May 1, 1987, by a Presidential Notice of April 21, 1987, 52 F.R. 13425.

j. Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland

Public Law 98-266 [H.R. 4835], 98 Stat. 153, approved April 17, 1984

AN ACT To authorize funding for the Clement J. Zablocki Memorial Outpatient Facility at the American Children's Hospital in Krakow, Poland.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) such amounts as may be necessary of the Polish currencies held by the United States shall be available for construction of a new facility at the American Children's Hospital in Krakow, Poland, which would be known as the Clement J. Zablocki Outpatient Facility. Such currencies may be utilized without regard to the requirements of section 1306 of title 31, the United States Code, or any other provision to law.

(b) There are authorized to be appropriated to the President $10,000,000 of which—

(1) $3,000,000 shall be for equipping and furnishing the Clement J. Zablocki Outpatient Facility at the American Children's Hospital in Krakow, Poland;

(2) $3,000,000 shall be for improving medical equipment at the American Children's Hospital in Krakow, Poland; and

(3) $4,000,000 shall be for providing medical supplies to Poland through private and voluntary agencies, including the expenses of purchasing, transporting, and distributing such supplies.

Amounts appropriated pursuant to this subsection are authorized to remain available until expended.[1]

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[1] Second Supplemental Appropriations Act, 1984, provided the following:

"CLEMENT J. ZABLOCKI MEMORIAL OUTPATIENT FACILITY IN POLAND

"For an additional amount for the 'Economic Support Fund', to carry out Public Law 98-266, $10,000,000, to remain available until expended."

k. Proposed Arms Sales to Jordan

Public Law 99-162 [S.J. Res. 228], 99 Stat. 937, approved November 25, 1985

JOINT RESOLUTION Relating to the proposed sales of arms to Jordan.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That prior to March 1, 1986, no letter of offer shall be valid with respect to any of the proposed sales to Jordan of advanced weapons systems, including advanced aircraft and advanced air defense systems, that are described in the notification pursuant to section 36(b) of the Arms Export Control Act submitted to the Congress on October 21, 1985, unless direct and meaningful peace negotiations between Israel and Jordan are underway.

I. International Narcotics Control Act of 1988

Title IV of Public Law 100–690 [Anti-Drug Abuse Act of 1988, H.R. 5210], 102 Stat. 4181 at 4261, approved November 18, 1988

AN ACT To prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1988".

TITLE IV—INTERNATIONAL NARCOTICS CONTROL

Subtitle A—General Provisions

SEC. 4001. SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1988".

SEC. 4002. TABLE OF CONTENTS.

TITLE IV—INTERNATIONAL NARCOTICS CONTROL

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Sec. 4201. Authorization for international narcotics control assistance.
Sec. 4202. Herbicides for aerial coca eradication.
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Sec. 4205. Military assistance for anti-narcotics efforts.
Sec. 4206. Reallocation of funds withheld from countries which fail to take adequate steps to halt illicit drug production or trafficking.

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[1] 22 U.S.C. 2151 note.

Subtitle D—Provisions Relating to Specific Countries

Sec. 4301. Cooperative nonmajor drug-transit countries.
Sec. 4302. Assistance for Bolivia.
Sec. 4303. Assistance for Peru.
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Sec. 4404. Reports and restrictions on certain countries.
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Sec. 4603. Denial of passports to certain convicted drug traffickers.
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Sec. 4607. Assignment of more Drug Enforcement Administration Agents to United States embassies.

Subtitle H—International Banking Matters

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Sec. 4801. Intelligence community actions directed at illicit international drug trafficking.
Sec. 4802. Correction of technical errors in prior Acts.
Sec. 4803. Resources for certain drug control activities.
Sec. 4804. Consistency with international obligations of the United States.

SEC. 4003.[2] DEFINITIONS.

As used in this title, the terms "drug" and "narcotic" mean narcotic and psychotropic drugs and other controlled substances as defined in section 481(i)(3) of the Foreign Assistance Act of 1961.

Subtitle B—Multilateral Narcotics Control Efforts

SEC. 4101.[3] REGIONAL ANTI-NARCOTICS FORCES.

(a) NEED FOR ANTI-NARCOTICS FORCE IN THE WESTERN HEMISPHERE.—It is the sense of Congress that—

(1) the operations of international illegal drug smuggling organizations pose a direct threat to the national security of the member nations of the Organization of American States;

(2) illegal international drug smuggling organizations have grown so large and powerful that they threaten to overwhelm small nations standing alone against them;

(3) to preserve the national sovereignty, protect the public health, and maintain domestic law and order within their borders, member nations of the Organization of American States should coordinate their efforts to fight the illegal drug trade;

(4) recent events in drug source and transit countries in the Western Hemisphere make clear the requirement for international agreement on the formation of a multinational force to conduct operations against these illegal drug smuggling organizations;

(5) the United States should make every effort to initiate diplomatic discussions through the Organization of American States aimed at achieving agreement to establish and operate a Western Hemisphere anti-narcotics force; and

(6) sensitive to the legitimate concerns of other member nations of the Organization of American States, the United States stands ready to provide equipment, training, and financial resources to support the establishment and operation of such an anti-narcotics force, but believes that the personnel for such a force should be provided by those nations facing the most serious threat from drug trafficking organizations.

(b) DIPLOMATIC DISCUSSIONS REGARDING WESTERN HEMISPHERE REGIONAL FORCE.—The President shall direct the United States Ambassador to the Organization of American States, under the direction of the Secretary of State, to initiate diplomatic discussions with member nations of the Organization of American States aimed at securing agreement to the formation of a multinational force to conduct operations against international illegal drug smuggling organizations wherever they may be found in the Western Hemisphere.

(c) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress

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[2] 22 U.S.C. 2291 note.
[3] 22 U.S.C. 2291 note.

United States diplomatic efforts have made toward achieving agreement on the establishment of such a multinational anti-narcotics force for the Western Hemisphere.

(d) BUDGET REQUEST.—If diplomatic efforts toward achieving a multinational anti-narcotics force for the Western Hemisphere demonstrate progress or agreement has been reached on formation of such a force, the President shall submit to the Congress, within 30 days after submission of the report required by subsection (c), supplemental budget requests for fiscal years 1989 and 1990 covering the United States share of the cost of operation and maintenance of such a force.

(e) OTHER REGIONAL ANTI-NARCOTIC FORCES.—The Congress urges the President to seek the establishment, in each of the relevant regions of the world, of a multilateral anti-narcotics force similar to the Western Hemisphere anti-narcotics force contemplated by this section.

SEC. 4102. UNITED NATIONS EFFORTS TO STOP ILLEGAL DRUG TRAFFICKING.

(a) FINDINGS.—The Congress finds that—

(1) the Department of State estimates that in 1987 the worldwide production of opium was between 1,902 and 3,107 metric tons, production of cocaine hydrochloride was between 324 and 422 metric tons, and production of marijuana was between 10,930 and 17,625 metric tons;

(2) it is estimated that the value of the illegal drug trade worldwide is as high as $500,000,000,000 a year;

(3) drug traffickers appear to be intensifying their efforts to distribute drugs to Western industrialized nations, as a source of stable currencies;

(4) drug traffickers also appear to be intensifying their efforts to distribute drugs to developing nations, as a means to increase their market;

(5) it is estimated that there are between 25,000,000 and 30,000,000 drug addicts worldwide;

(6) the American illegal drug market alone, comprised primarily of marijuana, cocaine, and heroin, annually produces between $50,000,000,000 and $100,000,000,000 at the retail level;

(7) approximately 35 percent of the inmates of State prisons were under the influence of illegal drugs at the time they committed the crime for which they were incarcerated;

(8) it is estimated that there are 26,000,000 regular users of illegal drugs in the Nation, slightly more than 10 percent of the Nation's population; and

(9) over 50 percent of the high school seniors in the Nation have used marijuana or hashish.

(b) ENCOURAGEMENT FOR ESTABLISHMENT OF INTERNATIONAL FORCE.—The Congress encourages the United Nations to explore ways and means to establish an international force or mechanism aimed at stopping the trafficking of illegal drugs.

SEC. 4103. INTERNATIONAL DRUG FORCE.

It is the sense of the Congress that the President should call for international negotiations for the purpose of agreeing on the establishment of an international drug force to pursue and apprehend major international drug traffickers.

SEC. 4104. INTERNATIONAL DRUG CONFERENCE.

It is the sense of the Congress that—

(1) the President should convene as soon as possible an international conference to be known as the International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere;

(2) this conference should involve the heads of state, the highest-ranking law enforcement officers, and other appropriate officials from every government in the Western Hemisphere that is willing to combat the drug trade, and whose cooperation the President determines is essential to that goal; and

(3) this conference should focus exclusively on combatting the drug trade and, in particular, should emphasize enhancing cooperative efforts among the governments of the Western Hemisphere to—

(A) substantially reduce the production, cultivation, and processing of illicit drugs;

(B) eliminate the transshipment of such drugs through countries in the Western Hemisphere;

(C) curb the demand for and use of such drugs in every country in the Western Hemisphere;

(D) combat the problems of drug-related corruption and drug money laundering; and

(E) share intelligence information, extradite drug traffickers, and take other steps necessary to improve law enforcement efforts against the drug trade.

SEC. 4105. INTEGRATED REGIONAL PLAN TO FIGHT THE INTERNATIONAL COCAINE TRADE.

(a) Consultations Concerning Creation of an Integrated Plan.—The Secretary of State shall consult with—

(1) the heads of appropriate agencies and departments of the United States Government,

(2) the governments of those countries in the Western Hemisphere that cultivate, process, or traffic in cocaine, and

(3) the governments of other cocaine consuming countries,

about the feasibility of creating a comprehensive, integrated, multinational plan whose objective would be the substantial reduction or elimination of the international cocaine trade.

(b) Report on the Integrated Plan.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall report to the Congress on—

(1) the feasibility of creating a comprehensive, integrated, multinational plan whose objective would be the substantial reduction or elimination of the international cocaine trade;

(2) the measures in such areas as eradication, interdiction, crop substitution, economic development, extradition, money-laundering, precursor chemical control, and related fields, that would be required to achieve such an objective;

(3) the material resources, funding, and technological assistance each producer and transit country would require in order to achieve such an objective; and

(4) the resources, funding, and other assistance each producer, transit, and consuming country would be prepared to make available for such an effort.

SEC. 4106. REGIONAL ANTI-NARCOTICS TRAINING CENTER IN THE CARIBBEAN.

It is the sense of the Congress that the Assistant Secretary of State for International Narcotics Matters—

(1) should seek the establishment of a regional anti-narcotics training center in the Caribbean;

(2) should contribute funds or other resources to such a center; and

(3) should seek such contributions from other countries for such a center.

SEC. 4107. AUTHORIZATION OF APPROPRIATIONS FOR MULTILATERAL AND REGIONAL DRUG ABUSE CONTROL PROGRAMS.[4] * * *

SEC. 4108. INTERNATIONAL CRIMINAL COURT.

(a) In General.—It is the sense of the Senate that the President should begin discussions with foreign governments to investigate the feasibility and advisability of establishing an international criminal court to expedite cases regarding the prosecution of persons accused of having engaged in international drug trafficking or having committed international crimes.

(b) United States Citizens.—Such discussions shall not include any commitment that such court shall have jurisdiction over the extradition of United States citizens and shall assure that any international agreement shall recognize the rights and privileges guaranteed to United States citizens under the United States Constitution.

Subtitle C—Authorizations and Earmarkings of Foreign Assistance

SEC. 4201. AUTHORIZATION FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

Section 482(a) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (1) and (3) and by inserting the following new paragraph (1) after "(a)":

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $101,000,000 for fiscal year 1989.".

SEC. 4202. HERBICIDES FOR AERIAL COCA ERADICATION.

(a) Earmarking of Funds.—The Secretary of State shall use not less than $500,000 of the funds made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control) to finance the testing and use of safe and effective herbicides for use in the aerial eradication of coca.

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[4] Sec. 4107 amended sec. 302 of the Foreign Assistance Act of 1961. For text, see page 110.

(b) **Impact on the Environment and Health.**—Section 481(d) of that Act is amended by adding at the end the following:

"(5)(A) The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide in the aerial eradication of coca in order to determine the impact of such use on the environment and on the health of individuals.

"(B) The President shall report on such impact in the annual report required by subsection (e).

"(C) If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.".

SEC. 4203. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) **Earmarking of MAP Funds.**—Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program), $1,000,000 for fiscal year 1989 shall be made available to arm, for defensive purposes, aircraft used in narcotics control eradication or interdiction efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country, and may not be used for the purchase of new aircraft.

(b) **Notification to Congress.**—The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

SEC. 4204. TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) **Earmarking of Funds.**—Not less than $2,000,000 of the funds made available for fiscal year 1989 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts of countries in Latin America and the Caribbean which are described in subsection (c); and

(2) the expenses of deploying, upon the request of the government of a foreign country described in subsection (c), Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) **Units Eligible for Training.**—Education and training may be provided under subsection (a)(1) and training may be provided under subsection (a)(2) only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(c) Eligible Countries.—Assistance may be provided under this section only for countries—

(1) which are major illicit drug producing or major drug-transit countries (as defined in section 481(i) of the Foreign Assistance Act of 1961);

(2) which have democratic governments; and

(3) whose law enforcement agencies do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

(d) Coordination With International Narcotics Control Assistance Program.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control).

(e) Waiver of Section 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 4205. MILITARY ASSISTANCE FOR ANTI-NARCOTICS EFFORTS.

(a) Purposes of Assistance.—Assistance provided under this section shall be designed to—

(1) enhance the ability of friendly governments to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking.

(b) Waiver of Certain Provisions.—During fiscal years 1989 and 1990, section 660(a) of the Foreign Assistance Act of 1961 shall not apply with respect to assistance provided under chapter 2 of part II of that Act (relating to the grant military assistance program) to countries described in subsection (c) for the procurement, for use in narcotics control, eradication, and interdiction efforts, of weapons or ammunition for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(c) Eligible Countries.—Assistance may be provided under this section only for countries—

(1) which are major illicit drug producing or major drug-transit countries (as defined in section 481(i) of the Foreign Assistance Act of 1961);

(2) which have democratic governments; and

(3) whose law enforcement agencies do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

(d) Reports to Congress.—Not less than 15 days before funds are obligated to provide assistance authorized by this section, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961, a written notification which specifies—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will achieve the purposes specified in subsection (a) of this section.

(e) Reports on Human Rights Situation.—Section 502B(c) of the Foreign Assistance Act of 1961 (relating to country-specific human rights reports upon the request of the foreign affairs committees) applies with respect to countries for which assistance authorized by this section is proposed or is being provided.

(f) Coordination With International Narcotics Control Assistance Program.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control).

(g) Earmarking for Latin America and the Caribbean.—Of the amounts made available for fiscal year 1989 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961, $3,500,000 shall be available only to provide assistance authorized by this section for countries in Latin America or the Caribbean.

(h) Conforming Amendments.—(1) Section 578(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), is amended—

(A) by striking out paragraph (3);

(B) in paragraph (4), by striking out "except as provided in paragraph (3) of this subsection"; and

(C) by redesignating paragraph (4) as paragraph (3).

(2) The amendments made by paragraph (1) shall be effective as of October 1, 1988.

SEC. 4206. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

(a) Requirement To Reallocate.—Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 486. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"(a) Additional Assistance for Countries Taking Significant Steps.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) International narcotics control assistance.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

"(2) Security assistance.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional security assistance for those countries.

"(b) Definition of Security Assistance.—As used in this section, the term 'security assistance' means assistance under chapter 2 of part II of this Act (relating to the grant military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales financing).".

(b) Conforming Amendments.—(1) The amendment made by subsection (a) of this section supersedes section 578(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461).

(2) Funds may be transferred pursuant to paragraph (1) of section 486(a) of the Foreign Assistance Act of 1961 (as enacted by this section) notwithstanding section 514 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (as amended by section 589 of that Act), relating to transfers between accounts.

Subtitle D—Provisions Relating to Specific Countries

SEC. 4301. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

(a) Greater Attention.—The Congress urges the Assistant Secretary of State for International Narcotics Matters to give greater attention, and provide more narcotics control assistance, to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating with the United States in its international narcotics control efforts.

(b) Earmarking of Assistance.—Of the amounts made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not less than $1,000,000 shall be available only for assistance to countries described in subsection (a).

SEC. 4302. ASSISTANCE FOR BOLIVIA.

(a) SECURITY ASSISTANCE.—For fiscal year 1989, assistance may be provided for Bolivia under chapter 2 (relating to the grant military assistance program), chapter 4 (relating to the Economic Support Fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961 and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing) only if the President certifies to the Congress that the Government of Bolivia is implementing legislation that—

(1) establishes its legal coca requirements,

(2) provides for the licensing of the number of hectares necessary to produce the legal requirement,

(3) makes unlicensed coca production illegal, and

(4) makes possession and distribution of coca leaf illegal (other than possession and distribution for licit purposes).

(b) SECTION 481 CERTIFICATION.—

(1) CONDITIONS ON CERTIFICATION.—For fiscal year 1989, the President may make a certification with respect to Bolivia under clause (i) or (ii) of section 481(h)(2)(A) of the Foreign Assistance Act of 1961 only if the Government of Bolivia—

(A) has entered into the narcotics cooperation agreement with the United States specified in section 611(2)(B) of the International Security and Development Cooperation Act of 1985;

(B) has fully achieved the eradication targets contained in that agreement; and

(C) has begun a program of forced eradication of illicit coca cultivation if the targets for voluntary eradication are not being met or are not continued.

(2) NONWAIVABILITY.—The authorities contained in section 614 of the Foreign Assistance Act of 1961 may not be used to waive the requirements of this subsection, and may not be used to waive the requirements of section 481(h) of that Act for fiscal year 1989 with respect to Bolivia.

(c) DEVELOPMENT ASSISTANCE.—For fiscal year 1989, the project agreement document for a project carried out pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) shall contain—

(1) in the case of the Chapare Regional Development Project, a clause requiring that project activities be suspended if the Government of Bolivia fails to achieve the coca eradication targets contained in the applicable agreement concerning that project; and

(2) in the case of a project to be carried out in an area in Bolivia in which there is no known illicit coca cultivation as of the date of enactment of this Act, a clause requiring that project activities be suspended if the Government of Bolivia fails to keep the project area free of illicit coca cultivation.

(d) FISCAL YEAR 1989 EARMARKING.—Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), is amended in the paragraph under the heading "INTERNATIONAL NARCOTICS CONTROL" by striking out

"$15,000,000" in the first proviso and all that follows through "not less than" in the second proviso.

SEC. 4303. ASSISTANCE FOR PERU.

(a) DETERMINATIONS REGARDING NARCOTICS CONTROL COOPERATION.—In making determinations with respect to Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961 for fiscal year 1989, the President shall give foremost consideration to whether the Government of Peru made substantial progress in meeting its coca eradication targets during the previous year.

(b) UPPER HUALLAGA VALLEY PROJECT.—Funds authorized to be appropriated for fiscal year 1989 to carry out chapter 1 of part I of that Act (relating to development assistance) may be made available for the project of the Agency for International Development in the Upper Huallaga Valley of Peru only if the Secretary of State determines, and reports to the Congress, that such project continues to be effective in reducing and eradicating coca leaf production, distribution, and marketing in the Upper Huallaga Valley.

SEC. 4304. ASSISTANCE FOR MEXICO.

(a) LIMITATION ON ASSISTANCE.—(1) Except as provided in paragraph (2), not more than $15,000,000 of the amounts made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control) may be made available for Mexico.

(2) Assistance in excess of the amount specified in paragraph (1) may be made available for Mexico only if the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 are notified at least 15 days in advance in accordance with the regular reprogramming procedures applicable under that section.

(b) COOPERATION ON DRUG LAW ENFORCEMENT MATTERS.—The Congress urges the Government of Mexico to cooperate fully with the United States on matters of concern to the United States regarding drug law enforcement. In particular, the Congress anticipates that the new Government which will take office on December 1 will move expeditiously to bring to trial and effectively prosecute those responsible for the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar and those responsible for the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior.

(c) JOINT AIR OPERATIONS AND JOINT CREWING.—In making determinations with respect to Mexico pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961 for fiscal year 1989, the President shall consider whether the Government of Mexico has responded favorably to the United States proposals to establish, and is making measurable progress toward implementing—

(1) a joint United States-Mexico airborne apprehension capability (commonly referred to as "joint air operations"); and

(2) joint air surveillance operations (commonly referred to as "joint crewing").

(d) BANKING INFORMATION CONCERNING MONEY LAUNDERING.—The Congress encourages the Government of Mexico, upon ratification of the Mutual Legal Assistance Treaty between the United States and Mexico, to furnish banking information pursuant to that treaty which would permit the successful investigation and prosecution in the United States of major narco-terrorists who use Mexican financial institutions to "launder" their profits.

SEC. 4305. ASSISTANCE FOR COLOMBIA.

(a) SIZE OF MILITARY ASSISTANCE GROUP.—The third sentence of section 515(c)(1) of the Foreign Assistance Act of 1961 (relating to countries authorized to have more than 6 members of the Armed Forces assigned to carry out international security assistance programs) is amended by inserting "Colombia," after "Honduras,".

(b) INCREASED MILITARY ASSISTANCE.—There are authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program) $15,000,000 as supplemental appropriations for fiscal year 1989, which are authorized to remain available until expended. These funds shall be available only to provide defense articles to the armed forces of Colombia to support their efforts to combat illicit narcotics production and trafficking.

(c) PROTECTION FROM NARCO-TERRORIST ATTACKS.—

(1) EARMARK OF FUNDS.—Of the funds made available for fiscal year 1989 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund), not less than $5,000,000 shall be used to provide to the Government of Colombia such assistance as it may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(2) WAIVER OF PROHIBITION ON ASSISTANCE TO POLICE FORCES.—The assistance provided for in paragraph (1) may be provided without regard to section 660 of the Foreign Assistance Act of 1961.

(3) NOTIFICATION TO CONGRESS.—Funds made available pursuant to paragraph (1) may not be obligated until at least 15 days after the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified of the proposed obligation in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(4) EXTENSION OF PERIOD FOR OBLIGATION OF FUNDS.—Funds allocated to carry out this subsection shall remain available until expended, notwithstanding any other provision of law.

SEC. 4306. ILLICIT DRUG PRODUCTION AND TRAFFICKING IN PAKISTAN.

In making determinations with respect to Pakistan pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of Pakistan—

(1) is increasing the number of illicit laboratories destroyed and is vigorously prosecuting and punishing the owners and operators of such laboratories;

(2) is increasing the number of arrests and successful prosecutions of violators, with particular emphasis on putting major traffickers out of business; and

(3) has made changes in Pakistani legal codes in order to enable Pakistani law enforcement officials to move more effec-

tively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws.

SEC. 4307. UNITED STATES RELIANCE ON LICIT OPIUM GUM FROM FOREIGN SOURCES.

(a) REVIEW REQUIRED.—The President shall conduct a review of United States narcotics raw material policy to determine—

(1) the current and reserve international needs for opium-derived pharmaceutical and chemical products, and the relative capabilities for meeting those needs through the opium gum process and the concentrated poppy straw method of production;

(2) whether the United States should continue to rely on a single foreign country for all its licit opium gum;

(3) whether it should be United States policy to encourage all countries which produce licit opium to use the concentrated poppy straw method of production; and

(4) what options are available, consistent with treaties to which the United States is a party, to reduce United States reliance on licit opium gum from foreign sources.

(b) REPORT TO CONGRESS.—The results of this review shall be reported to the Congress not later than 6 months after the date of enactment of this Act.

SEC. 4308. AFGHANISTAN AS A HEROIN SOURCE.

(a) FINDING.—The Congress finds that Afghanistan remains the source of most of the heroin exported from southwest Asia.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the United States Government should pursue efforts to press the Government of Afghanistan, and should work with the Mujahadeen—

(A) to reduce production and trafficking in areas under their respective control, and

(B) to encourage drug eradication, interdiction, and crop substitution in Afghanistan; and

(2) an initiative should be developed which could be put in place as the Mujahadeen and successors to the present Kabul regime begin to exert more civil authority.

SEC. 4309. INVOLVEMENT OF THE GOVERNMENT OF LAOS IN ILLICIT DRUG PRODUCTION AND TRAFFICKING.

(a) PERIODIC REPORTS.—The President shall prepare and transmit to the Congress, in accordance with subsection (b), periodic reports containing the following determinations:

(1) Does the Government of Laos, as a matter of government policy, encourage or facilitate the production or distribution of illegal drugs?

(2) Does any senior official of the Government of Laos engage in, encourage, or facilitate the production or distribution of illegal drugs?

(3) Do other governments in the region assist the distribution of illegal drugs from Laos?

(b) TIME FOR SUBMISSION OF REPORTS.—The report described in subsection (a) shall be submitted as part of each report required by section 481(e) of the Foreign Assistance Act of 1961 and as part of each report required by section 2013 of the Anti-Drug Abuse Act of 1986.

(c) INFORMATION TO BE INCLUDED.—(1) If an affirmative determination is made under paragraph (1) or (2) of subsection (a), the report shall describe the activities and identities of officials whose activities caused that determination to be made.

(2) If an affirmative determination is made under paragraph (3) of subsection (a), the report shall describe the activities of other governments in the region which caused that determination to be made.

Subtitle E—Annual Report and Certification Process

SEC. 4401. EXPRESSION IN NUMERICAL TERMS OF MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION.[5] * * *

SEC. 4402. REPORTS ON ASSISTANCE DENIED.[5] * * *

SEC. 4403. EXCLUSION OF CERTAIN NARCOTICS EDUCATION ACTIVITIES FROM DEFINITION OF UNITED STATES ASSISTANCE.[5] * * *

SEC. 4404. REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.[6] * * *

SEC. 4405. DETERMINING MAJOR DRUG-TRANSIT COUNTRIES.[5]

(a) PROCEDURES FOR DETERMINING.—Section 481 of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(k)(1) For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under subsection (i)(5)(A) and (B) of this section.

"(2) Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to paragraph (1) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

"(3) Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

"(A) which countries appear likely, as of that date, to be determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

"(B) which countries appear likely, as of that date, to be determined to be major illicit drug producing countries for that year.

"(4) Each report submitted pursuant to subsection (e) shall discuss—

"(A) any changes made, since the notification provided pursuant to paragraph (2), in the numerical standards and other guidelines used in determining which countries were major drug-transit countries under subsection (i)(5)(A) and (B) during the preceding year; and

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[5] Secs. 4401, 4402, 4403, and 4405 extensively amended sec. 481 of the Foreign Assistance Act of 1961. For text, see page 120.

[6] Sec. 4404 amended sec. 2013(a) of the Anti-Drug Abuse Act of 1986 (Public Law 99-570, 100 Stat. 3207). For text, see page 724.

"(B) any changes made, since the notification provided pursuant to paragraph (3)—

"(i) in the countries determined to be major drug-transit countries under subsection (i)(5)(A) and (B) during the preceding year; or

"(ii) in the countries determined to be major illicit drug producing countries for that year.".

(b) TRANSITION PROVISION.—With respect to fiscal year 1989, the Secretary of State—

(1) shall take the actions specified in subsection (k)(2) of section 481 of the Foreign Assistance Act of 1961 (as added by subsection (a) of this section) not later than 30 days after the date of enactment of this Act; and

(2) shall take the actions specified in subsection (k)(3) of that section (as added by subsection (a) of this section) not later than 60 days after the date of enactment of this Act.

SEC. 4406. WAIVER OF RESTRICTIONS ON UNITED STATES ASSISTANCE FOR CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 shall not apply with respect to a major drug-transit country for fiscal year 1989 if the President certifies to the Congress, during that fiscal year, that—

(1) section 481(i)(5)(C) of that Act (relating to money laundering) does not apply to that country;

(2) the country previously was a major illicit drug producing country but, during each of the preceding two years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States or has taken adequate steps on its own—

(A) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in section 481(h)(2) of that Act) or a multilateral agreement which achieves the objectives of that section;

(B) in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States; and

(C) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts.

SEC. 4407. ANNUAL CERTIFICATION PROCEDURES FOR BILATERAL AND MULTILATERAL ASSISTANCE.[7] * * *

SEC. 4408. ANNUAL CERTIFICATION PROCEDURES FOR TRADE AND AVIATION SANCTIONS.[8] * * *

Subtitle F—Miscellaneous Provisions Relating to Assistance Programs

SEC. 4501.[9] REPORTING ON TRANSFER OF UNITED STATES ASSETS.

(a) 15-Day Advance Notification.—Any transfer by the United States Government to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity shall be subject to the regular reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(b) Annual Reports.—Section 4601 of this title requires that all such transfers be reported annually to the Congress.

SEC. 4502. IMPORTANCE OF SUPPRESSING INTERNATIONAL NARCOTICS TRAFFICKING.[10]

SEC. 4503. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.[11] * * *

SEC. 4504. PROCUREMENT FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

The Congress urges the Secretary of State to take appropriate corrective action to improve the Department of State's procurement operations in order to assure that the procurement of property or services for use in providing assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control assistance) is timely, efficient, and in accordance with applicable procurement statutes and regulations.

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[7] Sec. 4407 extensively amended sec. 481(h) of the Foreign Assistance Act of 1961. For text, see page 127. Sec. 4402(b)(2) also repealed sec. 585(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (contained in sec. 101(e) of Public Law 100-202).

[8] Sec. 4408 extensively amended sec. 802 of the Trade Act of 1974 (Public Law 93-618). For text, see vol. III, sec. J.

[9] 22 U.S.C. 2291-2.

[10] Sec. 4502 amended sec. 481(a)(1) of the Foreign Assistance Act of 1961. For text, see page 120.

[11] Sec. 4503 added a new "SEC. 487. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS." to the Foreign Assistance Act of 1961. For text, see page 138.

SEC. 4505. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY.[12] * * *

SEC. 4506. REIMBURSEMENT FOR DOD SERVICES USED IN PROVIDING INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.[13] * * *

SEC. 4507. PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.[14] * * *

Subtitle G—Department of State Activities

SEC. 4601.[15] COORDINATION OF ALL UNITED STATES ANTI-NARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.

(a) COORDINATION.—Consistent with subtitle A of title I of this Act, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

(b) ANNUAL REPORTS.—

(1) REQUIREMENT FOR REPORTS.—At the time that the report required by section 481(e) of the Foreign Assistance Act of 1961 is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided by the United States Government during the preceding fiscal year to support international efforts to combat illicit narcotics production or trafficking.

(2) SPECIFIC ITEMS TO BE INCLUDED.—(A) Each report pursuant to this subsection shall specify the amount and nature of the assistance provided.

(B) Each report pursuant to this subsection shall include, for each country which is a significant direct or indirect source of illicit narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, a section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year.

(C) Each report required by this subsection shall also list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

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[12] Sec. 4505 added a new "SEC. 488. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY." to the Foreign Assistance Act of 1961. For text, see page 138.

[13] Sec. 4506 amended sec. 632(c) of the Foreign Assistance Act of 1961. For text, see page 219.

[14] Sec. 4507 added a new "SEC. 489. PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT." to the Foreign Assistance Act of 1961. For text, see page 138.

[15] 22 U.S.C. 2291-3.

(3) REPORTS MAY BE CLASSIFIED.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

(c) RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

SEC. 4602. REWARDS FOR INFORMATION CONCERNING NARCOTICS-RELATED OFFENSES COMMITTED OUTSIDE THE UNITED STATES.[16] * * *

SEC. 4603. DENIAL OF PASSPORTS TO CERTAIN CONVICTED DRUG TRAFFICKERS.[16] * * *

SEC. 4604.[17] MACHINE-READABLE DOCUMENT BORDER SECURITY PROGRAM.

(a) REQUIREMENT TO DEVELOP PROGRAM.—(1) The Department of State, the United States Customs Service, and the Immigration and Naturalization Service shall develop a comprehensive machine-readable travel and identity document border security program that will improve border entry and departure control through automated data capture of machine-readable travel and identity documents.

(2) Within 60 days after the date of enactment of this Act, the Department of State, the Customs Service, and the Immigration and Naturalization Service shall jointly submit a detailed implementation plan to the Congress and the President regarding how they intend to carry out the program required by this section.

(3) The border security program required by this section shall include an integrated cooperative data exchange system that will incorporate law enforcement data on narcotics traffickers, terrorists, convicted criminals, fugitives, and others currently documented in the Lookout Systems of all three agencies and departments.

(4) In developing the border security program mandated in this section, the agencies and departments shall ensure that at least the following documents shall be integrated into the program and be machine-readable: border crossing cards; alien registration; pilots licenses; passports; and visas.

(b) AGENCIES THAT WILL CONTRIBUTE LAW ENFORCEMENT DATA FOR THE SYSTEM.—The following agencies and organizations shall contribute appropriate law enforcement data to the integrated cooperative data exchange system mandated in this section and shall update such information into the system on no less than a monthly basis:

(1) The Drug Enforcement Administration.
(2) The Federal Bureau of Investigation.
(3) The Bureau of Alcohol, Tobacco, and Firearms.
(4) The Internal Revenue Service.
(5) The Federal Aviation Administration.

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[16] Secs. 4602 and 4603 amended secs. 36(g), 42, and 43 of the State Department Basic Authorities Act of 1956. For text, see vol. II, sec. D.

[17] 8 U.S.C. 1103 note.

(6) The United States Marshals Service.

(7) The United States Coast Guard.

(c) Authorization of Appropriations.—(1) There are authorized to be appropriated $23,000,000 for fiscal year 1989 for the development, procurement, and implementation of a machine-readable travel and identity document border security program. Of this amount $7,000,000 shall be available only for the United States Customs Service, $7,000,000 shall be available only for the Immigration and Naturalization Service, and $9,000,000 shall be available only for the Department of State to carry out the provisions of this section.

(2) The amounts authorized by paragraph (1) are in addition to other amounts authorized to be appropriated for fiscal year 1989.

(d) Continuing Full Implementation Required.—All agencies participating in the development and implementation of the border security program and systems mandated in this section shall maintain their participation and contributions to the program and systems authorized under this section at full implementation levels in fiscal years 1990, 1991, and 1992, subject to the availability of appropriations.

SEC. 4605.[18] EXTRADITION AND MUTUAL LEGAL ASSISTANCE TREATIES AND MODEL COMPREHENSIVE ANTIDRUG LAWS.

(a) Findings.—The Congress finds that—

(1) section 133 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (enacted August 16, 1985), directed the Secretary of State to increase United States efforts to negotiate updated extradition treaties relating to narcotics offenses with each major drug-producing country;

(2) section 803 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (enacted December 22, 1987) directed the Secretary of State to ensure that an objective of the United States diplomatic mission in each major illicit drug producing or major drug-transit country be to ensure that drug traffickers can be extradited to the United States; and

(3) although some progress has been made pursuant to these directives in increasing international law enforcement cooperation with respect to illicit drug production and trafficking, much greater international law enforcement cooperation is required in combating the illicit drug problem.

(b) Greater Emphasis Required.—Therefore, the Congress directs the Secretary of State to place greater emphasis on updating extradition treaties, and on negotiating mutual legal assistance treaties, with major illicit drug producing countries and major drug-transit countries.

(c) Model Treaties and Antidrug Laws.—The Secretary of State and the Attorney General shall jointly develop a model extradition treaty with respect to narcotics-related violations (including extradition of host country nationals), a model mutual legal assistance treaty, and model comprehensive anti-narcotics legislation. The Secretary of State shall distribute such treaties and legislation to each United States mission abroad.

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[18] 18 U.S.C. 3181 note.

(d) Report to Congress.—The Secretary of State shall report to the Congress, not later than six months after the date of enactment of this Act, on actions taken to carry out this section.

SEC. 4606. OVERSEAS INVESTIGATIVE PROGRAM.

It is the sense of the Congress that Regional Security Officers and other security personnel at United States embassies and other civilian posts abroad should be directed to expand their investigative activities with respect to illicit drug use and trafficking by United States Government personnel and their dependents.

SEC. 4607. ASSIGNMENT OF MORE DRUG ENFORCEMENT ADMINISTRATION AGENTS TO UNITED STATES EMBASSIES.

The Congress urges the Secretary of State to permit the assignment of additional Drug Enforcement Administration agents to United States diplomatic missions in those foreign countries where illicit narcotics production or trafficking is, or is likely to become, a significant problem.

Subtitle H—International Banking Matters

SEC. 4701.[19] INTERNATIONAL CURRENCY TRANSACTION REPORTING.

(a) Findings.—The Congress finds that—

(1) the success of cash transaction and money laundering control statutes in the United States has been significant; and

(2) the United States should play a leadership role in the development of an international system of a similar kind.

(b) Purpose.—It is the purpose of this section to urge the United States Government, to the maximum extent practicable, to seek the active cooperation of other countries in the enforcement of these statutes, since only a truly multilateral approach can be effective in eliminating bank haven loopholes through which money launderers can escape.

(c) Establishment of International Agency.—The Congress urges the Secretary of the Treasury to negotiate with finance ministers of foreign countries to establish an international currency control agency to—

(1) serve as a central source of information and database for international drug enforcement agencies;

(2) collect and analyze currency transaction reports filed by member countries; and

(3) encourage the adoption, by member countries, of uniform cash transaction and money laundering statutes.

(d) Maintenance of Domestic Effort.—While establishing a multilateral agency will be the most effective method of combating money laundering, the United States must itself continue to do everything it can to curb international money laundering.

SEC. 4702.[20] RESTRICTIONS ON LAUNDERING OF UNITED STATES CURRENCY.

(a) Findings.—The Congress finds that international currency transactions, especially in United States currency, that involve the proceeds of narcotics trafficking fuel trade in narcotics in the United States and worldwide and consequently are a threat to the national security of the United States.

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[19] 31 U.S.C. 5311 note.
[20] 31 U.S.C. 5311 note.

(b) PURPOSE.—The purpose of this section is to provide for international negotiations that would expand access to information on transactions involving large amounts of United States currency wherever those transactions occur worldwide.

(c) NEGOTIATIONS.—(1) The Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") shall enter into negotiations with the appropriate financial supervisory agencies and other officials of any foreign country the financial institutions of which do business in United States currency. Highest priority shall be attached to countries whose financial institutions the Secretary determines, in consultation with the Attorney General and the Director of National Drug Control Policy, may be engaging in currency transactions involving the proceeds of international narcotics trafficking, particularly United States currency derived from drug sales in the United States.

(2) The purposes of negotiations under this subsection are—

(A) to reach one or more international agreements to ensure that foreign banks and other financial institutions maintain adequate records of large United States currency transactions, and

(B) to establish a mechanism whereby such records may be made available to United States law enforcement officials.

In carrying out such negotiations, the Secretary should seek to enter into and further cooperative efforts, voluntary information exchanges, the use of letters rogatory, and mutual legal assistance treaties.

(d) REPORTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit an interim report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on progress in the negotiations under subsection (c). Not later than 2 years after such enactment, the Secretary shall submit a final report to such Committees and the President on the outcome of those negotiations and shall identify, in consultation with the Attorney General and the Director of National Drug Control Policy, countries—

(1) with respect to which the Secretary determines there is evidence that the financial institutions in such countries are engaging in currency transactions involving the proceeds of international narcotics trafficking; and

(2) which have not reached agreement with United States authorities on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings.

(e) AUTHORITY.—If after receiving the advice of the Secretary and in any case at the time of receipt of the Secretary's report, the Secretary determines that a foreign country—

(1) has jurisdiction over financial institutions that are substantially engaging in currency transactions that effect the United States involving the proceeds of international narcotics trafficking;

(2) such country has not reached agreement on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings; and

(3) such country is not negotiating in good faith to reach such an agreement,

the President shall impose appropriate penalties and sanctions, including temporarily or permanently—

(1) prohibiting such persons, institutions or other entities in such countries from participating in any United States dollar clearing or wire transfer system; and

(2) prohibiting such persons, institutions or entities in such countries from maintaining an account with any bank or other financial institution chartered under the laws of the United States or any State.

Any penalties or sanctions so imposed may be delayed or waived upon certification of the President to the Congress that it is in the national interest to do so. Financial institutions in such countries that maintain adequate records shall be exempt from such penalties and sanctions.

(f) DEFINITIONS.—For the purposes of this section—

(1) The term "United States currency" means Federal Reserve Notes and United States coins.

(2) The term "adequate records" means records of United States' currency transactions in excess of $10,000 including the identification of the person initiating the transaction, the person's business or occupation, and the account or accounts affected by the transaction, or other records of comparable effect.

(g) SUNSET.—The authority given the President in subsection (e) shall expire on June 30, 1994.

SEC. 4703. EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES FOR ANTI-NARCOTICS PURPOSES.[21] * * *

Subtitle I—Miscellaneous Provisions

SEC. 4801. INTELLIGENCE COMMUNITY ACTIONS DIRECTED AT ILLICIT INTERNATIONAL DRUG TRAFFICKING.

It is the sense of the Congress that, given the magnitude of the illicit drug problem and the threat it poses to the national security of the United States, agencies of the intelligence community should be more actively involved in the effort to combat illicit international drug trafficking.

SEC. 4802. CORRECTION OF TECHNICAL ERRORS IN PRIOR ACTS.[22] * * *

SEC. 4803.[23] RESOURCES FOR CERTAIN DRUG CONTROL ACTIVITIES.

(a) FINDINGS.—The Congress finds that—

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[21] Sec. 4703 amended sec. 2(b)(6) and added new text at the end of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)). For text see vol. III, sec. I.

[22] Sec. 4802 made technical corrections in sec. 2015(b)(1) of the Anti-Drug Abuse Act of 1986, and in sec. 481(i)(4)(vi) of the Foreign Assistance Act of 1961.

[23] 21 U.S.C. 1502 note.

(1) there has been a severe, cancer-like growth of youth gangs who abuse, transport, and traffic in illegal drugs;

(2) such youth gangs engage in acts of violence, often on a random basis, resulting in death or serious bodily injury to thousands of people, as well as terrorizing tens of thousands of others;

(3) such youth gangs have spread their activities from southern California to more than 50 cities throughout the United States, thereby clearly indicating that the threat posed by these gangs is national in nature, requiring a strong Federal response;

(4) stopping drugs at the source is one of the critical elements of our Government's war on drugs; and

(5) the Airwing Operations of the Bureau of International Narcotics Matters in the Department of State is an important tool of our Government's policy against narcotics trafficking.

(b) REVIEW.—It is, therefore, the sense of the Congress that the Director of National Drug Control Policy should review the entire drug control problem to determine priorities for new resources or shifting of existing resources, giving particular attention to—

(1) planning for and assistance to the Airwing Operations of the Bureau of International Narcotics Matters in the Department of State; and

(2) assistance to control the present and growing threat posed to the Nation by youth gangs which traffic in illegal drugs.

(c) ADDITIONAL RESOURCES.—Based upon his findings, the Director of National Drug Control Policy should consider, as necessary, recommending significant resources in addition to those specifically allocated in this Act.

SEC. 4804. CONSISTENCY WITH INTERNATIONAL OBLIGATIONS OF THE UNITED STATES.

(a) In prescribing regulations under subtitle D of title V of this Act,[24] the head of the appropriate agency—

(1) shall only establish requirements that are consistent with the international obligations of the United States, and

(2) shall take into consideration any applicable laws and regulations of foreign countries.

(b) Section 5152 shall not be construed as conferring extraterritorial application of the provisions of such section.

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[24] Subtitle D of title V of this Act was cited as the "Drug-Free Workplace Act of 1988". Sec. 5152 outlined "Drug-Free Workplace Requirements for Federal Contractors". See 102 Stat. 4304, 41 U.S.C. 701.

m. International Narcotics Control Act of 1986

Title II of Public Law 99–570 [Anti-Drug Abuse Act of 1986, H.R. 5484], 100 Stat. 3207, approved October 27, 1986.

AN ACT To strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1.[1] SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1986".

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TITLE II—INTERNATIONAL NARCOTICS CONTROL

SECTION 2001.[2] SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1986".

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SEC. 2004. PILOTS AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal year 1987 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) shall be available only for education and training in the operation and maintenance of aircraft used in narcotics control interdiction and eradication efforts.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (22 U.S.C. 2291) et seq.; relating to international narcotics control).

(c) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to police training).

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[1] 21 U.S.C. 801 note.
[2] 22 U.S.C. 2151 note.

SEC. 2006. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $1,000,000 of the funds made available for fiscal year 1987 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 2007.[3] REVIEW OF EFFECTIVENESS OF INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.

(a) REQUIREMENT FOR INVESTIGATION.—The Comptroller General shall conduct a thorough and complete investigation to determine the effectiveness of the assistance provided pursuant to chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(b) REPORTS TO CONGRESS.—

(1) PERIODIC REPORTS.—The Comptroller General shall report to the Congress periodically as the various portions of the investigation conducted pursuant to subsection (a) are completed.

(2) FINAL REPORT.—Not later than March 1, 1988, the Comptroller General shall submit a final report to the Congress on the results of the investigation. This report shall include such recommendations for administrative or legislative action as the Comptroller General finds appropriate based on the investigation.

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SEC. 2010. ISSUANCE OF DIPLOMATIC PASSPORTS FOR DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

The Congress commends the decision of the Secretary of State to issue diplomatic passports, rather than official passports, to officials and employees of the Drug Enforcement Administration who are assigned abroad. The Secretary shall report to the Congress before making any change in this policy.

SEC. 2011. INFORMATION-SHARING SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

(a) NEED FOR COMPREHENSIVE INFORMATION SYSTEM.—The Congress is concerned that the executive branch has not established a comprehensive information system on all drug arrests of foreign nationals in the United States so that information may be communicated to the appropriate United States embassies, even though the establishment of such a system is required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) ESTABLISHMENT OF SYSTEM.—The executive branch shall act expeditiously to establish the comprehensive information system required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and submit to the Congress a report that the system has been established.

SEC. 2012. CONDITIONS ON ASSISTANCE FOR BOLIVIA.

(a) OPERATION BLAST FURNACE.—(1) It is the sense of the Congress that—

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[3] 22 U.S.C. 2291 note.

(A) the Government of Bolivia's recent drug interdiction operation in cooperation with the United States (Operation Blast Furnace) evinced a determination to combat the growing power of the narcotics trade and narcotics traffickers;

(B) the operation has had a dramatic effect on the coca trade in that country by dropping the price of coca below the cost of production;

(C) as a result of this operation the coca trade has in the short term been sharply constricted:

(D) the restoration of non-coca dependent economic growth in Bolivia is crucial to the achievement of long-term progress in controlling illicit narcotics production; and

(E) control of illicit drug production is crucial to the survival of democratic institutions and democratic government in Bolivia.

(2) The Congress, therefore, applauds the demonstrated willingness of the Paz Estenssoro government, despite the risks of severe domestic criticism and disruptive economic consequences, to cooperate with the United States in Operation Blast Furnace.

(b) * * *

(c) * * *

SEC. 2013.[4] REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.

(a)[5] Reports.—The President shall prepare and transmit to the Congress, at the same time as each report is submitted pursuant to section 481(b)(2) of the Foreign Assistance Act of 1961, a report—

(1) listing each major illicit drug producing country and each major drug- transit country—

(A) which, as a matter of government policy, encourages or facilitates the production or distribution of illegal drugs;

(B) in which any senior official of the government of such country engages in, encourages, or facilitates the production or distribution of illegal drugs;

(C) in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has suffered or been threatened with violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof; or

(D) which, having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country; and

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[4] 22 U.S.C. 2291-1. Responsibility for submitting the first and second reports and certifications required by this section were delegated to the Secretary of State by Presidential Memorandum of May 12, 1987, 52 F.R. 20053 and January 27, 1988, 53 F.R. 3571 respectively.

[5] Sec. 4404 of the International Narcotics Control Act of 1988 (Public Law 100-690, 102 Stat. 4276) amended sec. 2013(a). It formerly read:

"(a) Reports.—Not later than 6 months after the date of enactment of this Act and every 6 months thereafter, the President shall prepare and transmit to the Congress a report—".

(2) describing for each country listed under paragraph (1) the activities and identities of officials whose activities caused such country to be so listed.

(b) Restrictions.—No United States assistance may be furnished to any country listed under subsection (a)(1), and the United States representative to any multilateral development bank shall vote to oppose any loan or other use of the funds of such bank for the benefit of any country listed under subsection (a)(1), unless the President certifies to the Congress that—

(1) overriding vital national interests require that provision of such assistance;

(2) such assistance would improve the prospects for cooperation with such country in halting the flow of illegal drugs; and

(3) the government of such country has made bona fide efforts to investigate and prosecute appropriate charges for any crime described in subsection (a)(1)(C) which may have been committed in such country.

(c) Relation to Other Provisions.—The restrictions contained in subsection (b) are in addition to the restrictions contained in section 481(h) of the Foreign Assistance Act of 1961 or any other provision of law.

(d) Definitions.—For purposes of this section, the terms "major illicit drug producing country", "major drug-transit country", and "United States assistance" have the same meaning as is given to those terms by section 481(i) of the Foreign Assistance Act of 1961.

SEC. 2014. COMBATING NARCOTERRORISM.

(a) Finding.—The Congress finds that the increased cooperation and collaboration between narcotics traffickers and terrorist groups constitutes a serious threat to United States national security interests and to the political stability of numerous other countries, particularly in Latin America.

(b) Improved Capability for Responding to Narcoterrorism.—The President shall take concrete steps to improve the capability of the executive branch—

(1) to collect information concerning the links between narcotics traffickers and the acts of terrorism abroad, and

(2) to develop an effective and coordinated means for responding to the threat which those links pose.

Not later than 90 days after the date of enactment of this Act, the President shall report to the Congress on the steps taken pursuant to this subsection.

(c) Administration of Justice Program.—Of the amounts made available for fiscal year 1987 to carry out section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program), funds may be used to provide to Colombia or other countries in the region such assistance as they may request for protection of judicial or other officials who are targets of narcoterrorist attacks.

(d) Reward Concerning Jorge Luis Ochoa Vasquez.—It is the sense of the Congress that the authority of section 36(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(b)), as amended by section 502(a) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399; enacted August

27, 1986), should be used expeditiously to establish a reward of up to $500,000 for information leading to the arrest or conviction of Jorge Luis Ochoa Vasquez for narcotics-related offenses.

SEC. 2015.[6] INTERDICTION PROCEDURES FOR VESSELS OF FOREIGN REGISTRY.

(a) FINDINGS.—The Congress finds that—

(1) the interdiction by the United States Coast Guard of vessels suspected for carrying illicit narcotics can be a difficult procedure when the vessel is of foreign registry and is located beyond the customs waters of the United States;

(2) before boarding and inspecting such a vessel, the Coast Guard must obtain consent from either the master of the vessel or the country of registry; and

(3) this process, and obtaining the consent of the country of registry to further law enforcement action, may delay the interdiction of the vessel by 3 or 4 days.

(b) NEGOTIATIONS CONCERNING INTERDICTION PROCEDURES.—

(1) The Congress urges the Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, to increase efforts[7] to negotiate with relevant countries procedures which will facilitate interdiction of vessels suspected of carrying illicit narcotics.

(2) If a country refuses to negotiate with respect to interdiction procedures, the President shall take appropriate actions directed against that country, which may include the denial of access to United States ports to vessels registered in that country.

(3) The Secretary of State shall submit reports to the Congress semiannually identifying those countries which have failed to negotiate with respect to interdiction procedures.

SEC. 2016. ASSESSMENT OF NARCOTICS TRAFFICKING FROM AFRICA.

The President shall direct that an updated threat assessment of narcotics trafficking from Africa be prepared. If it is determined that an increased threat exists, the assessment shall examine the need for the United States to provide increased narcotics control training for African countries.

SEC. 2017. * * *

SEC. 2018.[8] MULTILATERAL DEVELOPMENT BANK ASSISTANCE FOR DRUG ERADICATION AND CROP SUBSTITUTION PROGRAMS.

(a) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF DRUG ERADICATION PROGRAM.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initate discussions with other Directors of their respective banks and to propose that all possible assistance be provided to each major illicit drug producing country for the development and implementation of a drug eradication program, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities.

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[6] 46 U.S.C. app. 1902 note.

[7] Sec. 4802 of Public Law 100-690 struck out "effects" and inserted "efforts".

[8] 22 U.S.C. 2291 note.

(b) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation or production of illicit narcotic drugs or other controlled substances in major illicit drug producing countries, to the extent such countries develop and maintain adequate drug eradication programs.

(c) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the provisions of this section have been carried out.

(d) DEFINITIONS.—For purposes of this section—

(1) MULTILATERAL DEVELOPMENT BANK.—The term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term "major illicit drug producing country" has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 229(i)(2)).

(3) NARCOTIC DRUG AND CONTROLLED SUBSTANCE.—The terms "narcotic drug" and "controlled substance" have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

SEC. 2019. DRUGS AS A NATIONAL SECURITY PROBLEM.

The Congress hereby declares that drugs are a national security problem and urgers the President to explore the possibility of engaging such essentially security-oriented organizations as the North Atlantic Treaty Organization in cooperative drug programs.

SEC. 2020. FINDINGS CONCERNING GREATER INTERNATIONAL EFFORT TO ADDRESS DRUG THREAT.

The Congress finds that—

(1) in response to the growing narcotics threat to the international community—

(A) the single Convention on Narcotic Drugs, 1961, the 1972 Protocol amending that Convention, and the Convention on Psychotropic Substances were adopted under United Nations auspices and

(B) the United Nations has created various entities to deal with drug abuse control and prevention; and

(2) a greater international effort to address this threat, such as additional or increased contributions by other countries to the United Nations Fund for Drug Abuse and Control and greater coordination of enforcement and eradication efforts.

SEC. 2021. INTERNATIONAL CONFERENCE ON DRUG ABUSE AND ILLICIT TRAFFICKING.

(a) CONGRESSIONAL SUPPORT.—The Congress hereby declares its support for United Nations General Assembly Resolution 40/122 adopted on December 13, 1985, in which the General Assembly decided to convene in 1987, an International Conference on Drug Abuse and Illicit Trafficking in order to generate universal action to combat the drug problem in all its forms at the national, regional, and international levels, and to adopt a comprehensive outline of future activities.

(b) UNITED STATES PARTICIPATION.—With respect to United States participation in the International Conference on Drug Abuse and Illicit Trafficking, the Congress calls on the President—

(1) to appoint the head of the United States delegation well in advance of the conference; and

(2) to ensure that necessary resources are available for United States preparation and participation.

(c) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress on the status of United States preparations for the International Conference on Drug Abuse and Illicit Trafficking, including the status of naming the delegation, the issues expected to arise, and United States policy initiatives to be taken at the conference.

SEC. 2022. EFFECTIVENESS OF INTERNATIONAL DRUG PREVENTION AND CONTROL SYSTEM.

(a) STUDY.—The United States seek to improve the program and budget effectiveness of United Nations entities related to narcotics prevention and control by studying the capability of existing United Nations drug-related declarations, conventions, and entities to heighten international awareness and promote the necessary strategies for international action, to strengthen international cooperation, and to make effective use of available United Nations funds.

(b) REPORT TO CONGRESS.—Not later than April 30, 1987, the President shall report to the Congress any recommendations that may result from this study.

SEC. 2023. NARCOTICS CONTROL CONVENTIONS.

The Congress—

(1) urges that the United Nations Commission on Narcotic Drugs complete work as quickly as possible, consistent with the objective of obtaining an effective agreement, on a new draft convention against illicit traffic in narcotic drugs and psychotropic substances, in accordance with the mandate given the Commission by United Nations General Assembly Resolution 39/141; and

(2) calls for more effective implementation of existing conventions relating to narcotics.

SEC. 2024. MEXICO-UNITED STATES INTERGOVERNMENTAL COMMISSION.

(A) NEGOTIATIONS TO ESTABLISH.—In accordance with the resolution adopted by the 26th Mexico-United States Interparliamentary Conference which recommended that the Government of Mexico and the Government of the United States establish a Mexico-United States Intergovernmental Commission on Narcotics and

Psychotropic Drug Abuse and Control, the President should direct the Secretary of State, in conjunction with the National Drug Enforcement Policy Board, to enter into negotiations with the Government of Mexico to create such a joint intergovernmental commission.

(b) MEMBERSHIP.—The commission which should meet semiannually, should include members of the Mexican Senate and Chamber of Deputies and the United States House of Representatives and Senate, together with members of the Executive departments of each Government responsible for drug abuse, education, prevention, treatment, and law enforcement.

(c) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Congress on the progress being made in establishing a commission in accordance with subsection (a).

SEC. 2025. OPIUM PRODUCTION IN PAKISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the production of opium in Pakistan is expected to more than double in the 1985-1986 growing season, posing an increased threat to the health and welfare of the people of Pakistan and the people of the United States; and

(2) despite past achievements, the current eradication program in Pakistan, which employs manual eradication of opium poppies, has proven inadequate to meet this new challenge.

(b) NEED FOR MORE EFFECTIVE DRUG CONTROL PROGRAM.—The Congress urges that the Government of Pakistan adopt and implement a comprehensive narcotics control program which would provide for more effective prosecution of drug traffickers, increased interdiction, and aerial eradication of opium poppies.

(c) REPORT TO CONGRESS.—The Secretary of State shall report to the Congress not later than 60 days after the date of enactment of this Act with Respect to the adoption and implementation by the Government of Pakistan of a comprehensive narcotics control program in accordance with subsection (b).

SEC. 2026. OPIUM PRODUCTION IN IRAN, AFGHANISTAN, AND LAOS.

The Congress calls on the President to instruct the United States Ambassador to the United Nations to request that the United Nations Secretary General raise with delegations to the International Conference on Drug Abuse and Illicit Trafficking the problem of illicit drug production in Iran, Afghanistan, and Laos, the largest opium poppy producing countries which do not have narcotics control programs.

SEC. 2027. INCREASED FUNDING FOR USIA DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated for the United States Information Agency for fiscal year 1987 $2,000,000 which shall be available only for increasing drug education programs abroad. These programs may include—

(1) the distribution of films and publications which demonstrate the impact of drugs on crime and health; and

(2) exchange of persons programs and international visitor programs involving students, educators, and scientists.

SEC. 2028. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President for fiscal year 1987 $3,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, which amount shall be pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

SEC. 2029.[9] REPORTS TO CONGRESS ON DRUG EDUCATION PROGRAMS ABROAD.

The Director of the United States Information Agency and the Administrator of the Agency for International Development shall include in their annual reports to the Congress a description of the drug education programs carried out by their respective agencies.

SEC. 2030. NARCOTICS CONTROL EFFORTS IN MEXICO.

(a) CONGRESSIONAL FINDINGS.—The Congress finds—

(1) in their meeting in August 1986, President de la Madrid Hurtado and President Reagan recognized the unique relationship between our two countries and the importance and the desire to respect the sovereignty of each nation;

(2) further, the United States government has actively worked to support the Mexican government in easing its international debt burden;

(3) both Presidents pledged their cooperation in drug eradication, enforcement and education;

(4) this pledge of cooperation has not been realized fully because of the inadequate response of the Mexican government in:

(A) fully investigating the 1985 murders of U.S. Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot, Alfredo Zavala Avelar;

(B) fully investigating the 1986 detention and torture of U.S. Drug Enforcement Administration agent Victor Cortez, Junior;

(C) bringing to trial and effectively prosecuting those responsible for the Camarena and Zavala murders and those responsible for the detention and torture of Cortez;

(D) using effectively and efficiently the fleet of aircraft provided by the United States government for drug eradication and interdiction; and

(E) preventing drug trafficking and drug-related violence on the United States- Mexican border.

(b) MEASURES TO BE CONSIDERED.—Therefore, it is the sense of Congress that unless substantial progress is demonstrated in the near future on the issues described in subsection (a)(4),[10] the President should consider taking one or more of the following measures:

(1) imposition of a mandatory travel advisory for all of Mexico;

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[9] 22 U.S.C. 2291 note.

[10] Sec. 4802(a)(2) of Public Law 100–690 struck out "subsection (A)(4)" and inserted "subsection (a)(4)".

(2) restrictions on foreign assistance (including further disbursements from the Exchange Stabilization Fund and Federal Reserve Bank;

(3) denial of favorable tariff treatment for Mexican products;

(4) denial of favorable U.S. votes in multilateral development banks.

(c) PROSECUTION OF THOSE RESPONSIBLE FOR THE TORTURE AND MURDER OF DEA AGENTS.—Of the funds allocated for assistance for Mexico for fiscal year 1987 under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control), $1,000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico—

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar;

(2) has fully investigated the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior; and

(3) has brought to trial and is effectively prosecuting those responsible for those murders and those responsible for that detention and torture.

n. Control of Swine Influenza

Partial text of Public Law 94-302 [H.R. 9721], 90 Stat. 591, approved May 31, 1976

AN ACT To provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE III—SWINE INFLUENZA

Sec. 301.[1] (a) The Congress finds and declares that—

(1) the problems posed by swine influenza transcend national and political boundaries;

(2) no one country, or even one portion of the world, can singularly undertake the search for a worldwide solution to the problems posed by swine influenza;

(3) the global nature of swine influenza demands international cooperation and coordination in the investigation and planning for effective control of swine influenza;

(4) the Public Health Service of the United States has invited the World Health Organization of the United Nations and its International Influenza Reference Centers to participate in the investigation and planning for the control of swine influenza;

(5) special collaboration has already been established among the United States, the United Kingdom, and Canada for mutual participation in the investigation and planning for the control of swine influenza;

(6) the United States Department of State and the Public Health Service of the United States have joint programs to provide information to foreign countries on the nature and extent of swine influenza and the methods necessary to control it; and

(7) the technology of the United States for the surveillance of virus disease and vaccine production should be made available to foreign countries.

(b) It is the sense of the Congress that the President should furnish assistance to foreign countries and international organizations for the investigation and planning for the control of swine influenza.

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[1] 22 U.S.C. 2101 note.

o. American Aid to Poland Act of 1988

Partial text of Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107 at 1336, approved August 23, 1988

AN ACT To enhance the competitiveness of the American industry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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PART II—ASSISTANCE TO POLAND

SEC. 2221.[1] SHORT TITLE.

This part may be cited as the "American Aid to Poland Act of 1988".

SEC. 2222. FUNDING FOR SCIENCE AND TECHNOLOGY AGREEMENT.

(a) FUNDING.—For purposes of implementing the 1987 United States-Polish science and technology agreement, there are authorized to be appropriated to the Secretary of State for fiscal year 1988, $1,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) are authorized to remain available until expended.

(c) DEFINITION.—For purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto.

SEC. 2223. DONATION OF SURPLUS AGRICULTURAL COMMODITIES.

(a) AUTHORITY TO DONATE.—Notwithstanding any other provision of law, the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949, for each of the fiscal years 1988 through 1992, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) DEFINITIONS.—For purposes of this section—

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[1] 7 U.S.C. 1431 note.

(1) the term "eligible commodities" has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 and, in addition, includes feed grains; and

(2) the term "nongovernmental agencies" includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.

SEC. 2224. USE OF POLISH CURRENCIES.

(a) USE OF POLISH CURRENCIES.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) and approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) AVAILABILITY OF CURRENCIES.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

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SEC. 2226. JOINT COMMISSION.

(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

(b) MEMBERSHIP.—The joint commission shall be composed of—

(1) appropriate representatives of the Government of Poland;

(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

SEC. 2227. PROVISION OF MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT TO POLAND.

In addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1988 and 1989, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment.

p. International Cooperation to Protect Biological Diversity

Public Law 100–530 [H.J. Res. 648], 102 Stat. 2651, approved October 25, 1988

JOINT RESOLUTION To encourage increased international cooperation to protect biological diversity.

Whereas habitat destruction is a main cause of the accelerating extinction of animal and plant species;

Whereas increased international cooperation is essential to protect species threatened with extinction and to halt the loss of unique and irreplaceable ecosystems; and

Whereas the United States has strongly supported efforts to convene an international convention for preservation of the Earth's biological diversity: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.[1] STATEMENT OF POLICIES.

The Congress—

(1) supports the United States efforts, consistent with section 119(g) of the Foreign Assistance Act of 1961, to initiate discussions to develop an international agreement to preserve biological diversity; and

(2) calls upon the President to continue exerting United States leadership in order to achieve the earliest possible negotiation of an international convention to conserve the Earth's biological diversity, including the protection of a representative system of ecosystems adequate to conserve biological diversity.

SEC. 2.[2] REPORT.

Not later than one year after the date of the enactment of this joint resolution, the President shall submit a report to the Congress on progress toward the goal of negotiating the international convention described in paragraph (2) of section 1.

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[1] 22 U.S.C. 2151q note.

[2] 22 U.S.C. 2151q note.

4. Executive Orders, Delegations of Authority and Reorganization Plans Relating to Foreign Assistance and Arms Exports

a. Administration of Foreign Assistance and Related Functions

Executive Order 12163, September 29, 1979, 44 F.R. 56673, as amended by Executive Order 12226, July 22, 1980, 45 F.R. 49235; Executive Order 12321, September 14, 1981, 46 F.R. 46109; Executive Order 12365, May 24, 1982, 47 F.R. 22933; Executive Order 12423, May 26, 1983, 48 F.R. 24025; Executive Order 12458, January 14, 1984, 49 F.R. 1977; Executive Order 12500, January 24, 1985, 50 F.R. 3733; Executive Order 12560, May 24, 1986, F.R. 19159; Executive Order 12608, September 9, 1987, 52 F.R. 34617; Executive Order 12620, December 24, 1987, 52 F.R. 49135; and by Executive Order 12639, May 6, 1988, 53 F.R. 16691.

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, Reorganization Plan No. 2 of 1979, the International Development Cooperation Act of 1979, and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

1-1. UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

1-101. Establishment of the United States International Development Cooperation Agency. Sections 1, 5, 6, and 8 of Reorganization Plan No. 2 of 1979 are declared effective and the United States International Development Cooperation Agency (hereinafter referred to as "IDCA") is hereby established.[1]

1-102. Delegation of Functions. (a) Exclusive of the functions otherwise delegated, or reserved to the President, by this order, and subject to the provisions of this order, there are hereby delegated to the Director of IDCA (hereinafter referred to as the "Director") all functions conferred upon the President by:

(1) the Foreign Assistance Act of 1961 (22 U.S.C. 2151 *et seq.*); (hereinafter referred to as the "Act");

(2) the Latin American Development Act (22 U.S.C. 1942 *et seq.*);

(3) section 402 of the Mutual Security Act of 1954 (22 U.S.C. 1922);

(4) section 413(b) of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2431); and

(5) title IV of the International Development Cooperation Act of 1979 (22 U.S.C. 3501 *et seq.*) (hereinafter referred to as the "IDC Act of 1979").

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[1] Executive Order 12147 of July 19, 1979 (44 F.R. 42957) declared that secs. 2, 3, and 4 of Reorganization Plan No. 2 of 1979, providing for the offices of Director, Deputy Director and Associate Directors, were immediately effective. For text, see page 760.

(6) [2] section 903(b) of the International Security and Development Cooperation Act of 1985 (hereinafter referred to as "ISDCA of 1985");

(7) [2] section 709 of the ISDCA of 1985, which authority shall be exercised in consultation with the Secretary of State and the Secretary of Defense;

(8) [2] sections 1205(b) and 1210 of the ISDCA of 1985;

(9) [2, 3] section 538 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as enacted in Public Law 100-202), to be exercised by the Administrator of the Agency for International Development within IDCA; and

(10) [2, 4] the first proviso under the heading "Population, Development Assistance" contained in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as enacted in Public Law 100-202), to be exercised by the Administrator for the Agency for International Development within IDCA.

(b) The functions under sections 116(e), 491(b), 491(c), 607, 627, 628, 630(3), and 666 of the Act, and section 403(e) of the IDC Act of 1979, delegated to the Director shall be exercised in consultation with the Secretary of State.

(c) The functions under section 125(b) of the Act delegated to the Director shall be exercised in consultation with the Secretary of the Treasury and, with regard to the United Nations Development Program, in consultation with the Secretary of State.

(d) The Director shall exercise the functions of the President under sections 301(a), 301(e)(1),[5] and 305 of the Act only insofar as they pertain to the United Nations Development Program, UNICEF, the Organization of American States Technical Assistance Funds, the United Nations Capital Development Fund, the United Nations Educational and Training Program for Southern Africa, the United Nations/Food and Agriculture Organization World Food Program, the Food and Agriculture Organization Post-Harvest Losses Fund, the United Nations Disaster Relief Organization, and any other international programs whose purpose is primarily developmental.

(e) In carrying out the functions under section 653 of the Act that are delegated to the Director, the Director shall consult with the Director of the Office of Management and Budget.

(f) To the extent practicable, the Director will exercise functions relating to Foreign Service personnel in a manner that will assure maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system. To this end he shall consult regularly with the Secretary of State.

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[2] Sec. 1 of Executive Order 12560, May 24, 1986 (51 F.R. 19159), deleted par. (6) (which concerned sec. 533 of the Foreign Assistance and Related Programs Appropriations Act, 1985) and added new pars. (6), (7), (8), (9), and (10).

[3] Sec. 1 of Executive Order 12639, May 6, 1988(53 F.R. 16691), amended subsec. (9). It formerly referred to sec. 541 of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190).

[4] Sec. 1 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), amended subsec. (10). It formerly referred to the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190).

[5] A reference to sec. 301(e)(3), which previously appeared at this point, was struck out by sec. 1(c) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

(g) In exercising functions under the Act arising from later-enacted amendments to any law specified in subsection (a) of this section that relate directly to matters of foreign policy, the Director shall consult with the Secretary of State to determine whether such function should more appropriately be exercised by the Secretary or reserved to the President.

1-103. Agency for International Development. (a) The Director shall continue within IDCA the Agency for International Development, heretofore established in the Department of State.

(b) The Agency for International Development shall be headed by an Administrator appointed pursuant to section 624(a) of the Act.

(c) The officers provided for in section 624(a) of the Act shall serve in the Agency for International Development.

1-104. Office of Small Business. The Office of Small Business provided for in section 602(b) of the Act shall be in the Agency for International Development.

1-2. DEPARTMENT OF STATE

1-201. Delegation of Functions. (a) Subject to the provisions of this order, there are hereby delegated to the Secretary of State (hereafter in this Part referred to as the "Secretary") all functions conferred upon the President by:

(1) sections 239(g), 301(a), 301(c), 301(e)(1), 302(a)(1) as it relates to the Presidential certification concerning the United Nations Relief and Works Agency, section 305, of the Act; [6]

(2) section 495F of the Act, insofar as they relate to policy decisions pertaining to refugee programs under such section;

(3) [7] section 505(a) relating to other provisions which may be required by the President, and sections 505 (d), (e), (f), and (g) of the Act;

(4) section 505(a) (1) and (4) of the Act relating to consent;

(5) section 505(b) of the Act to the extent that it pertains to countries that agree to the conditions set forth therein;

(6) chapter 4 of Part II of the Act, insofar as they relate to policy decisions and justifications for economic support programs under such chapter, including determinations of whether there will be an economic support program for a country and the amount of the program for each country, and all functions conferred by Section 534 of the Act.[8] Such functions shall be exercised in cooperation with the Director;

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[6] References to secs. 301(b), 301(e)(3), and 302(a)(3), which previously appeared in this paragraph, were struck out by sec. 1(d) of Executive Order 12365, May 24, 1982 (47 F.R. 22933). References to secs. 481 and 502B, which previously appeared in this paragraph were struck out be sec. 3 of Executive Order 12560, May 24, 1986 (51 F.R. 19159), which substituted the words "section 305" in lieu thereof, and added new pars. (26), (27), and (28). Pars. (26), (27), and (28) were subsequently renumbered as (24), (25), and (26) by sec. 30 of Executive Order 12608, Sept. 9, 1987 (52 F.R. 34617).

[7] Sec. 4 of Executive Order 12560, May 24, 1986 (51 F.R. 19159), restated par. (3) and struck out the reference to sec. 504(a) and added the reference to sec. 505(f).

[8] The words "and all functions conferred by Section 534 of the Act" were added by Executive Order 12620, December 24, 1987 (52 F.R. 49135).

(7) [9] chapter 6 of part II of the Act;

(8) section 601(b) (3), (4), and (6) of the Act;

(9) section 614(b) of the Act, except that the function of determining which provisions of law should be disregarded to achieve the purpose of the provision is reserved to the President;

(10) section 620 (c), (e), (f), (g), (j), (q), and (s) of the Act; [10]

(11) section 620C(d) and (e) [11] of the Act;

(12) section 625(d) of the Act, insofar as it relates to personnel in the Department of State;

(13) section 625(k)(1) of the Act;

(14) section 634B of the Act, insofar as it relates to functions delegated to the Secretary under this order;

(15) sections 617 and 653 of the Act, insofar as they relate to chapter 8 of part I and part II of the Act;

(16) [12] other provisions of the Act that relate directly and necessarily to the conduct of programs and activities vested in or delegated to the Secretary;

(17) [13] section 8(d) of the Act of January 12, 1971 (22 U.S.C. 2321b(d)); and

(18) [13] section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a).

(19) [14] section 725 of the International Security and Development Cooperation Act of 1981;

(20) [14] section 726 of the International Security and Development Cooperation Act of 1981;

(21) [15] Chapter 8 of Part II of the Act, except that such functions shall be exercised consistent with Section 573(d)(3) thereof;

(22) [16] Section 402(b)(2) of Title 10 of the United States Code, which shall be exercised in consultation with the Secretary of Defense.

(23) [9] sections 207, 552(b), 611, 612(a), 617(c), 702(c), 703(a), 705 (b) and (c), 706, 722(j), 813(b) and 1008 of the ISDCA of 1985;

(24) [6] chapter 8 of part I of the Act, except for section 481(h), which is reserved to the President;

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[9] Sec. 2 of Executive Order 12560, May 24, 1986 (51 F.R. 19159), deleted pars. (7), (22), (23), (25), (26), and (27), renumbered the remaining paragraphs accordingly, and added new paragraphs (23), (24), and (25). Pars. (23) and (24) were subsequently revoked by sec. 30 of Executive Order 12608, Sept. 9, 1987 (52 F.R. 34617), which renumbered pars. (25) and (26) as Pars. (23) and (24) respectively.

[10] References to sec. 620 (b) and (i), which previously appeared in this paragraph, were struck out by sec. 1(e) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

[11] Sec. 1 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), added "and (e)".

[12] Sec. 6 of Executive Order 12560, May 24, 1986 (51 F.R. 19160), deleted the words "other than chapter 4 thereof".

[13] Sec. (f) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), deleted original pars. (17) and (19) (which concerned sec. 657 and 668 of the Foreign Assistance Act of 1961 and the Mutual Defense Assistance Control Act of 1951, respectively) and renumbered the remaining paragraphs accordingly.

[14] Pars. (19), and (20), previously numbered (20), and (21) were added by sec. 1(a) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

[15] Par. (21) was added by sec. 1 of Executive Order 12458, Jan. 14, 1984 (49 F.R. 1977).

[16] Sec. 1, of Executive Order 12500, Jan. 24, 1985 (50 F.R. 3733), added par. 22. It was later amended by sec. 5 of Executive Order 12560, May 24, 1986 (51 F.R. 19160). Sec. 1 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), rewrote par. 22. It formerly read as follows:

"Sec. 1540 of the Department of Defense Authorization Act, 1985, (Public Law 98-525), as amended by section 306 of the Department of Defense Authorization Act, 1986 (Public Law 99-145), which shall be exercised in consultation with the Secretary of Defense."

(25) [6] section 502B of the Act;[17]

(26) [17] sections 513, 527, 528, 542, 561, 570, 571, 586(c), and 590 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as enacted in Public Law 100–202);

(27) [18] the fourth proviso under the heading "Southern Africa, Development Assistance" contained in Title II of the Foreign Operations, Export Financing, and Related Programs Act, 1988 (as enacted in Public Law 100–202);

(28) [18] the proviso relating to tied aid credits under the heading "Economic Support Fund" contained in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as enacted in Public Law 100–202), which shall be exercised in consultation with the Administrator of the Agency for International Development;

(29) [18] subsection (c)(2) under the heading "Foreign Military Sales Debt Reform" contained in Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as enacted in Public Law 100–202), and section 572 and section 573(c) of that Act, each of which shall be exercised in consultation with the Secretary of Defense. In addition, section 573(c) shall be exercised in consultation with the Director of the United States Arms Control and Disarmament Agency.

(b) The functions under sections 239(g), 620(e), 620(g),[19] 620(j), 620(q), 620(s), and 625(k)(1) of the Act delegated to the Secretary shall be exercised in consultation with the Director.

(c) The functions under section 653 of the Act delegated to the Secretary shall be exercised in consultation with the Secretary of Defense, insofar as they relate to functions under the Act administered by the Department of Defense, and the Director of the Office of Management and Budget.

(d) The Secretary may redelegate to the Director or to any other officer or agency of the Executive branch functions delegated to the Secretary by this order.

1–3. DEPARTMENT OF DEFENSE

1–301. Delegation of Functions. Subject to the provisions of this order, there are hereby delegated to the Secretary of Defense:

(a) The functions conferred upon the President by Part II (except chapters 4, 6, and 8 thereof [20] of the Act not otherwise delegated or reserved to the President.

(b) To the extent that they relate to other functions under the Act administered by the Department of Defense, the functions conferred upon the President by sections 602(a), 605(a), 625(a), 625(d)(1), 625(h), 627, 628, 630(3), 631(a), 634B, 635(b) (except with respect to negotiation, conclusion, and termination of international agreements), 635(d), 635(g), and 636(i) of the Act.[21]

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[17] Sec. 1 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), deleted "and" at this point, and rewrote par. (26).

[18] Sec. 5 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), added par. (27), (28), and (29).

[19] A reference to sec. 620(i), which previously appeared at this point, was struck out by sec. 1(g) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

[20] The reference to ch. 8 was added by Executive Order 12458, Jan. 14, 1984 (49 F.R. 1977).

(c) Those functions under section 634A of the Act, to the extent they relate to notifications to the Congress concerning changes in programs under part II of the Act (except chapters 4, 6, and 8 thereof)[20] and under the Arms Export Control Act, as amended,[22] subject to prior consultation with the Secretary of State.

(d) The functions under sections 627, 628, and 630(3) of the Act delegated to the Secretary of Defense shall be exercised in consultation with the Secretary of State.

(e)[23] Those functions conferred upon the President under section 616 of the ISDCA of 1985.

(f)[24] The functions conferred upon the President under section 573(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as enacted in Public Law 100-202).

1-302. Reports and Information. In carrying out the functions under section 514 of the Act delegated to him by section 301 of this order, the Secretary of Defense shall consult with the Secretary of State.

1-4. INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

1-401. Establishment of Institute for Scientific and Technological Cooperation. There is established within IDCA the Institute for Scientific and Technological Cooperation (hereinafter referred to as the Institute).

1-402. Establishment of the Council on International Scientific and Technological Cooperation. There is established the Council on International Scientific and Technological Cooperation pursuant to section 407(a) of the IDC Act of 1979.

1-403. There are hereby established two additional positions in the Institute pursuant to section 406(c) of the IDC Act of 1979. The officers appointed to these positions shall perform such duties and exercise such powers as the Director of the Institute may prescribe.

1-5. OTHER AGENCIES

1-501. Department of the Treasury. (a) There are delegated to the Secretary of the Treasury the functions conferred upon the President by:

(1)[25] section 305, insofar as it relates to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Fund, and the International Monetary Fund;

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[21] Sec. 1 of Executive Order 12423, May 26, 1983 (48 F.R. 24025), added the reference to sec. 636(i).

[22] The reference to the Arms Control Export Act, as amended, were added by sec. 8 of Executive Order 12560, May 24, 1986 (51 F.R. 19160).

[23] Par. (e) was added by sec. 7 of Executive Order 12560, May 24, 1986 (51 F.R. 19160).

[24] Sec. 6 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), added par. (f).

[25] Sec. 1(h) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), struck out par. (1) (which concerned sec. 301(e)(3) of the Foreign Assistance Act of 1961) and renumbered the remaining paragraphs accordingly.

(2) [25] the second sentence of section 612(a) of the Act; and

(3) [25] section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(b) The Secretary of the Treasury shall continue to administer any open special foreign country accounts established pursuant to former section 514 of the Act as enacted by section 201(f) of Public Law 92-226 (86 Stat. 25) and repealed by Section 12(b)(5) of Public Law 93-189 (87 Stat. 722).

(c) The functions under section 305 of the Act delegated to the Secretary of the Treasury shall be exercised in consultation with the Director, as provided in Executive Order No. 11269 of February 14, 1966, as amended.

1-502. Department of Commerce. There is hereby delegated to the Secretary of Commerce so much of the functions conferred upon the President by section 601(b)(1) of the Act as consists of drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas.

1-503. Office of Personnel Management. There is hereby delegated to the Director of the Office of Personnel Management the function of prescribing regulations conferred upon the President by the proviso contained in section 625(b) of the Act.

1-504. International Communication Agency. The International Communication Agency shall perform all public information functions abroad with respect to the foreign assistance, aid, and development programs of the United States Government.

1-505. Development Loan Committee. There is hereby established a Development Loan Committee in accordance with section 122(e) of the Act which shall consist of the Director of IDCA, who shall be Chairman, the Administrator of the Agency for International Development, the Chairman of the Board of Directors of the Export-Import Bank of the United States, the Assistant Secretary of State for Economic Affairs, the Assistant Secretary of the Treasury dealing with international finance, the Assistant Secretary of Commerce for Industry and Trade, and the officer of the Agency for International Development dealing with development financing.

1-506. Development Coordination Committee. (a) In accordance with section 640B of the Act, there is hereby established a Development Coordination Committee (hereinafter referred to as the Committee). The Committee shall consist of the Director of IDCA, who shall be Chairman; the Administrator of the Agency for International Development, the Director of the Institute for Scientific and Technological Cooperation; the Under Secretary of State for Economic Affairs; the Under Secretary of the Treasury for Monetary Affairs; the Under Secretary of Commerce; the Under Secretary of Agriculture; the Under Secretary of Labor; the Under Secretary of Energy; a Deputy Special Representative for Trade Negotiations; an Associate Director of the Office of Management and Budget; a representative of the Assistant to the President for National Security Affairs; the President of the Export-Import Bank of the United

States; the Director of the Peace Corps; [26] and the President of the Overseas Private Investment Corporation.

(b) Whenever matters within the jurisdiction of the Committee may be of interest to Federal agencies not represented on the Committee under subsection (a) of this section, the Chairman of the Committee may consult with such agencies and may invite them to designate representatives to participate in meetings and deliberations of the Committee.

(c) The Chairman of the Committee may establish subcommittees of the Committee and designate the chairman thereof.

(d) Subject to the foreign policy guidance of the Secretary of State, the Committee shall advise the President with respect to coordination of United States policy and programs affecting the development of developing countries, including programs of bilateral and multilateral development assistance.

(e) All agencies and officers of the Government shall keep the Committee informed in necessary detail as to the policies, programs and activities referred to in subsection (d) of this section.

(f) Nothing herein shall be deemed to derogate from the responsibilities of the Secretary of State or the Secretary of the Treasury, or from responsibilities vested elsewhere by law or other Executive Orders.

1-6. ADDITIONAL DELEGATIONS AND LIMITATIONS OF AUTHORITY; CONSULTATION

1-601. General Delegation of Functions. There are hereby delegated to the heads of agencies having responsibilities for carrying out the provisions of the Act all functions conferred upon the President by:

(a) section 654 (except as reserved to the President); and

(b) those provisions of acts appropriating funds under the authority of the Act that relate to the Act, or other acts authorizing such funds, insofar as they relate to the functions delegated by this order.

1-602. Personnel. (a) In carrying out the functions conferred upon the President by the provisions of section 625(d)(1) of the Act, and by this order delegated to the Director of IDCA, the Director shall authorize such of the agencies that administer programs under the Act as he may deem appropriate to perform any of the functions under section 625(d)(1) of the Act to the extent that the said functions relate to the programs administered by the respective agencies.

(b) Persons appointed, employed, or assigned after May 19, 1959, under section 527(c) of the Mutual Security Act of 1954 or section 625(d) of the Act for the purpose of performing functions under such Acts outside the United States shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by section 528 of the Foreign Service Act of 1946 in cases in which their service under the appointment, employment, or assignment exceeds thirty months.

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[26] The Peace Corps was added to the membership of the Development Coordination Committee by Executive Order 12226, July 22, 1980 (45 F.R. 49235).

1-603. Special Missions and Staffs Abroad. The maintenance of special missions or staffs abroad, the fixing of the ranks of the chiefs thereof after the chiefs of the United States diplomatic missions, and the authorization of the same compensation and allowances as the chief of mission, class 3 and class 4, within the meaning of the Foreign Service Act of 1946 (22 U.S.C. 801 *et sec.*), all under section 631 of the Act, shall be subject to the approval of the Secretary of State.

1-604. International Agreements. The negotiation, conclusion, and termination of international agreements pursuant to the Act, title IV of the IDC Act of 1979, or section 402 of the Mutual Security Act of 1954 shall be subject to the requirements of 1 U.S.C. 112b and to applicable regulations and procedures.

1-605. Interagency Consultation. Each officer to whom functions are delegated by this order, shall, in carrying out such functions, consult with the heads of other departments and agencies, including the Director of the Office of Management and Budget, on matters pertaining to the responsibilities of departments and agencies other than his or her own.

1-7. RESERVED FUNCTIONS

1-701. Reservation of Functions to the President. There are hereby excluded from the functions delegated by the foregoing provisions of this order:

(a) The functions conferred upon the President by sections 122(e), 298(a), 451, 504(b), 613(a), 614(a), 620(a), 620(d), 620(x), 620A, 620C(c), 621(a), 622(b), 622(c), 633(a), 633(b), 640B, 662(a), and 663(b) of the Act.

(b) The functions conferred upon the President by sections 402, 405(a), 406 and 407 of the IDC Act of 1979.

(c) The functions conferred upon the President by the Act and section 408(b) of the Mutual Security Act of 1954 with respect to the appointment of officers required to be appointed by and with the advice and consent of the Senate and with respect to the appointment of officers pursuant to sections 233(b) and 624(c) of the Act.

(d) The functions conferred upon the President with respect to determinations, certifications, directives, or transfers of funds, as the case may be, by sections 303, 465(b),[27] 481(h),[28] 505(d)(2)(A), 505(d)(3), 506(a),[29] 552(c), 552(e),[27] 604(a), 610, 614(c), 632(b), 633A, 663(a), 669(b)(1), 620E, 670(a), [30] 670(b)(2), and 670(b)(3) [31] of the Act.

(e) The following-described functions conferred upon the President:

(1) Those under section 503(a) that relate to findings: *Provided*, That the Secretary of State, in the implementation of the

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[27] References to secs. 465(b), 552(c), and 552(e) were added by sec. 9 of Executive Order 12560, May 24, 1986 (51 F.R. 19160).

[28] Section 3 of Executive Order 12500, Jan. 24, 1985 (50 F.R. 3733), inserted the reference to section 481(h) in lieu of a reference to 481(a).

[29] A reference to sec. 515(f), which previously appeared at this point, was deleted by sec. 1 of Executive Order 12321, Sept. 14, 1981 (46 F.R. 46109).

[30] Sec. 7 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), deleted "(2)" at this point.

[31] Sec. 1(b) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), deleted references to sec. 659 and 670(b)(1), which previously appeared in this subsec., and added the references to sec. 620E, 670(a)(2), 670(b)(2), and 670(b)(3).

functions delegated to him under sections 505(a)(1), (a)(4), and (e) of the Act, is authorized to find, in the case of a proposed transfer of a defense article or related training or a related defense service by a foreign country or international organization to a foreign country or international organization not otherwise eligible under section 503(a) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace.

(2) Those under section 505(b) in respect of countries that do not agree to the conditions set forth therein.

(3) That under section 614(b) with respect to determining any provisions of law to be disregarded to achieve the purpose of that section.

(4) That under the second sentence of section 654(c) with respect to the publication in the Federal Register of any findings or determination reserved to the President: *Provided*, That any officer to whom there is delegated the function of making any finding or determination within the purview of section 654(a) is also authorized to reach the conclusion specified in performance of the function delegated to him.

(f) [32] That under section 523(d) of the Mutual Security Act of 1954 (22 U.S.C. 1783(d)).

(g) [33] Those under sections 130, 131, 504 and 505 of the ISDCA of 1985.

1-702. Subsequent Amendments. Functions conferred upon the President by subsequent amendments to the Act are delegated to the Director only insofar as they do not relate directly and necessarily to the conduct of programs and activities that either the President or an agency other than IDCA is authorized to administer pursuant to express reservation or delegation of authorities in a statute or in this or another Executive Order.

1-8. FUNDS

1-801. Allocation of Funds. Funds appropriated or otherwise made available to the President for carrying out the Act shall be deemed to be allocated without any further action of the President, as follows:

(a) There are allocated to the Director (1) all funds made available for carrying out the Act except those made available for carrying out Part II of the Act (other than chapter 4 thereof), section 481 of the Act, and section 637(b) of the Act, and (2) all funds made available for carrying out title IV of the IDC Act of 1979.

(b) There are allocated to the Secretary of Defense funds made available for carrying out Part II of the Act (except chapters 4, 6, and 8 thereof).

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[32] Sec. 1(i) of Executive Order 12365, May 24, 1982 (47 F.R. 22933), struck out subsec. (f), which contained references to sec. 103(b) (first proviso), 104, and 203 of the Mutual Defense Assistance Control Act of 1951, and renumbered the remaining subsections accordingly.

[33] Subsec. (g), originally added as subsec. (h), was amended and restated by sec. 10 of Executive Order 12560, May 24, 1986 (51 F.R. 19160). Previously, this subsec. made reference to sec. 607 of the Foreign Assistance and Related Programs Appropriations Act, 1979. Sec. 7 of Executive Order 12639, May 6, 1988 (53 F.R. 16691), deleted the following text from the end of this paragraph: "and under section 529 of the Foreign Assistance and Related Programs Appropriations Act, 1986".

(c) There are allocated to the Secretary of State funds made available for carrying out sections 481 and 637(b) and chapters 6 and 8 of Part II of the Act.[20]

1-802. Reallocation of Funds. The Director of IDCA, the Secretary of Defense, and the Secretary of State may allocate or transfer as appropriate any funds received under subsections (a), (b), and (c), respectively of section 1-801 of this order, to any agency or part thereof for obligation or expenditure thereby consistent with applicable law.

1-9. GENERAL PROVISIONS

1-901. Definition. As used in this order, the word "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

1-902. References to Orders and Acts. Except as may for any reason be inappropriate:

(a) References in this order or in any other Executive Order to (1) the Foreign Assistance Act of 1961 (including references herein to "the Act"), (2) unrepealed provisions of the Mutual Security Act of 1954, or (3) any other act that relates to the subject of this order shall be deemed to include references to any subsequent amendments thereto.

(b) References in any prior Executive Order to the Mutual Security Act of 1954 or any provisions thereof shall be deemed to be references to the Act or the corresponding provision, if any, thereof.

(c) [34] References in this order to provisions of any Act, and references in any other Executive Order or in any memorandum delegation to provisions of any Act related to the subject of this order shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provisions, respectively.

(d) References in this order or in any other Executive Order to this order or to any provision thereof shall be deemed to include references thereto, respectively, as amended from time to time.

(e) References in any prior Executive Order not superseded by this order to any provisions of any Executive Order so superseded shall hereafter be deemed to be references to the corresponding provisions, if any, of this order.

1-903. Prior Executive Orders. (a) The following are revoked:

(1) Executive Order No. 10973 of November 3, 1961, as amended;

(2) section 2(a) of Executive Order No. 11579 of January 19, 1971; and

(3) Executive Order No. 10893 of November 8, 1960.

(b) The following are amended:

(1) section 3(a) of Executive Order No. 11846 of March 27, 1975, as amended, by adding the following new paragraph (12) after paragraph (11):

> "(12) The Director of the United States International Development Cooperation Agency";

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[34] Sec. 4 of Executive Order 12500, Jan. 24, 1985 (50 F.R. 3733), amended and restated subsec. (c).

(2) section 1-202 of Executive Order 12065 of June 28, 1978, by striking out "The Administrator, Agency for International Development" and inserting in lieu thereof "The Director of the United States International Development Cooperation Agency";

(3) section 2(a) of Executive Order No. 11958 of January 18, 1977, by striking out "the Administrator of the Agency for International Development" and inserting in lieu thereof "the Director of the United States International Development Cooperation Agency";

(4) section 3 of Executive Order 10900 of January 5, 1961, by adding thereto the following new subsection:

"(d) The Secretary of State may redelegate to the Director of the United States International Development Cooperation Agency, or to any other officer or agency of the Executive branch, functions delegated to such Secretary by this order.";

(5) section 4 of Executive Order 11223 of May 12, 1965, by inserting immediately following "the Secretary of State" the words "or the Director of the United States International Development Cooperation Agency (with respect to functions vested in or delegated to the Director)"; and

(6) the President's memorandum of October 18, 1961, entitled "Determination Under Section 604(a) of the Foreign Assistance Act of 1961" (26 F.R. 10543) is amended by inserting after "the Secretary of State" each time it appears in such memorandum the words "or the Director of the United States International Development Cooperation Agency (with respect to non-military programs administered by such Agency)".

(c) Any reference in any other Executive Order to the Agency for International Development or the Administrator thereof shall be deemed to refer also to the International Development Cooperation Agency or the Director thereof, respectively.

(d) As authorized by section 403(c) of the IDC Act of 1979, the reference in Executive Order No. 11223 of May 12, 1965 to "the performance of functions authorized by this Act" shall be deemed to include the performance of functions authorized by section 403 of the IDC Act of 1979.

1-904. Saving Provisions. Except to the extent inconsistent with this order, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1-905. Effective Date. The provisions of this order shall become effective as of October 1, 1979.

b. Coordination of Economic Policies for Sub-Saharan Africa

Executive Order 12599, June 23, 1987, 52 F.R. 23779

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Foreign Assistance Act of 1961, as amended, and in order to establish procedures for development of a common long-term goal for all United States economic programs and policies in Sub-Saharan Africa, it is hereby ordered as follows:

Section 1. *Establishment of the Coordinating Committee for Sub-Saharan Africa.* (a) There is hereby establish a Coordinating Committee for Sub-Saharan Africa ("the Committee").

(b) The Committee shall consist of the Administrator of the Agency for International Development, who shall be Chairman; the Assistant Secretary of the Treasury for International Affairs, who shall be Co-Chairman; representatives designated by the Secretaries of State, Defense, Agriculture, and Commerce; and representatives of the Office of Management and Budget, the Central Intelligence Agency, the United States Information Agency, the Peace Corps, the Overseas Private Investment Corporation, the United States Trade Representative, the African Development Foundation, the Assistant to the President for National Security Affairs, and the Assistant to the President for Policy Development.

(c) Whenever matters being considered by the Committee may be of interest to Federal agencies not represented on the Committee, the Chairman may invite the head of such agencies to designate representatives to participate in meetings and deliberations of the Committee.

(d) The Committee shall operate under the policy direction of the Secretaries of State and the Treasury.

(e) All Executive departments and agencies shall keep the Committee informed in necessary detail as to the polices, programs, and activities relating to the functions of the Committee described in section 2.

(f) Nothing herein shall be deemed to derogate from the responsibilities of the head of any agency in exercising the responsibilities vested in that person by law.

Sec. 2. *Functions of the Committee.* (a) The Committee shall operate in a manner best deemed appropriate by its Chairman in order to ensure the following:

(1) that all United States economic programs and policies for Sub-Saharan Africa are consistent with the goal of ending hunger in the region through economic growth, policy reform, and private sector development;

(2) United States economic programs and policies for each country of Sub-Saharan Africa are tailored to the specific needs of that

country, consistent with the goal presented in subsection (a)(1) of this section;

(3) United States economic programs and policies for Sub-Saharan Africa are fully coordinated within the United States Government prior to implementation with other donors and potential recipients; and,

(4) the overall level of aid the United States offers a country of Sub-Saharan Africa is related to continued performance of that country toward the goal presented in subsection (a)(1) of this section or willingness to undertake economic reform.

(b) The Committee shall support the Secretaries of State and the Treasury in preparing the annual report to the President required in section 3 of this Order.

(c) The Committee shall coordinate the preparation annually of a unified budget justification for transmittal to the Congress. This justification shall encompass all United States economic activities, strategies, and policies for Sub-Saharan Africa. Nothing in this subsection shall be deemed to affect the statutory authorities of the Director of the Office of Management and Budget.

(d) The Committee shall encourage and coordinate the alignment of United States food assistance programs in accordance with the goals presented in subsection 2(a) of this Order.

(e) The Committee shall encourage and coordinate efforts to mobilize expanded humanitarian and business involvement in Africa, both United States and international, through an outreach effort with appropriate Federal agencies.

(f) The Committee shall encourage and coordinate efforts of Federal agencies to expand United States business involvement in Sub-Saharan Africa by targeting trade and investment missions, prefeasibility and feasibility studies, sector and regional analyses, access to credit, and information on trade and investment opportunities in countries undertaking economic reform.

Sec. 3. *Annual Report to the President.* (a) The Secretary of State and the Secretary of the Treasury shall make a joint report to the President annually on Sub-Saharan Africa.

(b) The annual report shall discuss the economic condition of Sub-Saharan Africa and highlight progress being made in the region toward achieving the goal presented in section 2(a)(1). The annual report shall also affirm that all United States economic programs and policies conform with and support the goal of ending hunger in Sub-Saharan Africa through economic growth and private enterprise development.

c. State Department Delegation of Authority No. 145

State Department Delegation of Authority No. 145, February 4, 1980, 45 F.R. 11655, as amended by Delegation of Authority No. 145-1, July 15, 1980, 45 F.R. 51974; Delegation of Authority No. 145-2, February 4, 1984, 49 F.R. 7018; Delegation of Authority 145-5, January 22, 1988, 53 F.R. 5072; and by Delegation of Authority 145-6, February 23, 1988, 53 F.R. 8540.

FOREIGN ASSISTANCE ACT OF 1961 AND CERTAIN RELATED ACTS

DELEGATION OF AUTHORITY

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.* (hereinafter "the Act"), Executive Order No. 12163 of September 29, 1979, 44 F.R. 56673 (hereinafter "the Order"), and section 4 of the Act of May 26, 1949 (63 Stat. 111, 22 U.S.C. 2658), the following functions are hereby delegated:

Section 1. Functions Delegated to Officers of the Department of State

The following functions are delegated to officers of the Department of State as indicated:

(a) To the Under Secretary for Security Assistance, Science and Technology:

(1) Exclusive of the functions reserved to the Secretary of State herein or otherwise delegated, the functions conferred upon the Secretary by section 1-201 of the order insofar as such functions relate to programs under part II of the Act (including chapters 4 and 6 thereof), and by Executive Order 11958 of January 18, 1977 (42 F.R. 4311), relating to sales and exports under the Arms Export Control Act (22 U.S.C. 2751 *et seq.*).

(2) Subject to section 3(a) of this delegation of authority, the functions conferred upon the Secretary of State by sections 531(a)(2) and 622(c) of the Act and by section 2(b) of the Arms Export Control Act relating to continuous supervision and general direction of economic assistance and military assistance and sales programs and exports, including, but not limited to, whether there shall be an economic support program for a country and the amount thereof, a military assistance program for a country and the value thereof or a military sale to a country and the amount thereof, and whether there shall be delivery or other performance under such program, sale or export, to the end that such programs, sales and exports are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

(3) The functions conferred upon the Secretary of State by—

(A) sections 39 and 42(b) of the Arms Export Control Act,

(B) section 504 of the Foreign Relations Authorization Act, fiscal year 1979 (22 U.S.C. 2656d), and

(C)[1] section 1454 of the Department of Defense Authorization Act, 1986 (PL 99-145, 10 U.S.C. 2547), and (to the extent not otherwise expressly delegated or reserved) other authorities and responsibilities of the Secretary of State relating to the provision of Department of Defense equipment or services for humanitarian purposes.

(4) The functions conferred on the President by—

(A) section 8(d) of the act of January 12, 1971 (22 U.S.C. 2321b (d)); and

(B) section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a).

(5) The function of consultation, pursuant to the order and Executive Order 11958, with the Secretary of Defense, the Director of the Office of Management and Budget and the Director of the International Development Cooperation Agency (hereinafter "IDCA").

(b) To the Under Secretary for Management:

(1) The function of consultation with the Director of IDCA under the Order with respect to maximum compatibility in the administration of the Foreign Service personnel system.

(2) The function conferred on the Secretary of State by section 514 of the Mutual Security Act of 1954 (22 U.S.C. 1766).

(c) To the Assistant Secretary for Economic and Business Affairs:

(1)[2] Those functions conferred upon the Secretary of State by sections 5(k) and 6(k) of the Export Administration Act of 1979 (50 U.S.C. App. 2404(k), 2405(k)) and the functions under sections 5(f)(4), 5(i), and 6(g) of such Act conferred upon the Secretary of State by section 1-102(b) of Executive Order 12214 of May 2, 1980, 45 F.R. 29783, relating to negotiations with other countries, subject to the concurrences required by the Department of State Circular 175 Procedure.

(2) Those functions conferred upon the President by section 601(b)(6) of the act.

(3) The function conferred upon the Secretary of State by section 3(b) of Executive Order 10900 of January 5, 1961 (26 F.R. 143) of insuring that all functions exercised under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 *et seq.*) are consistent with the foreign policy of the United States.

(d) To the Assistant Secretary for International Organization Affairs:

Those functions conferred upon the President by sections 301(a), 301(b), 301(c), 301(e)(1), 301(e)(3), 302(a)(1) as it relates to the Presidential certifications concerning the United Nations Relief and Works Agency 302(a)(3), and 305 of the act.

(e) To the Assistant Secretaries:

Principal responsibility consistent with section I-604 of the order for concurrence of the Department of State, with the approval of the legal adviser and in accordance with the Circular 175 Procedure, in the negotiation, conclusion and termination of international agreements relevant to their respective areas of responsibility by IDCA and its component agencies pursuant to international agreement authorities conferred upon IDCA and its component agencies by statute, reorganization plan, Executive Order, or delegation of authority.

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[1] Subparagraph (C) was added by State Department Delegation of Authority 145-6, February 23, 1988 (53 F.R. 8540).

[2] The amendments of July 15, 1980 (45 F.R. 51974) added all the functions listed under par. (1) except for those under sec. 5(k) of the Export Administration Act of 1979.

(f) To the legal adviser:

(1) Those functions conferred upon the President by sections 601(b)(3), 601(b)(4), and 620(e)(2) of the act.

(2) Responsibility for insuring compliance with the Case Act (1 U.S.C. 112b) and applicable regulations and procedures, including the Circular 175 Procedure, with respect to international agreements.

(g) To the Assistant Secretary for International Narcotics Matters:

(1) Those functions conferred upon the President by section 481 of the act, together with all those authorities contained in the act, to the extent necessary or appropriate to accomplish the purpose of section 481 of the act: *Provided,* That Department of State procurement for the International Narcotics Control Program shall be carried out in accordance with Department of State Procurement Regulations (41 CFR Chapter 6).

(2) Those functions conferred upon the Secretary of state by the determination of the President pursuant to section 604(a) of the act, dated October 18, 1961 (26 F.R. 10543), and by section 4 of the Executive Order 11223 of May 12, 1965 (30 F.R. 6635).

(3) The functions of negotiating, concluding and terminating international agreements relating to international narcotics control programs subject to the concurrences required by the Circular 175 Procedure.

(h) To the Coordinator for Refugee Affairs:

Those functions conferred upon the President by section 495F and by Chapter 4 of part II of the act insofar as they relate to refugees, together with all those authorities contained in the act, to the extent necessary or appropriate to accomplish such purposes of section 495F and of chapter 4 of part II.

(i) [3] To the Director of the Office for Combatting Terrorism:

Those functions conferred upon the President by Chapter 8 of Part II of the act, together with all those authorities contained in the act, to the extent necessary or appropriate to accomplish the purposes of Chapter 8 of Part II of the act, except that such functions shall be exercised consistent with Section 573(d)(3) thereof.

(j) [4] To the Assistant Secretary for Inter-American Affairs:

Those functions conferred upon the President by section 534(b)(3) of the Act, to be exercised in cooperation with the Administrator of the Agency for International Development within the International Development Cooperation Agency, together with authorities under other provisions in chapter 4 of part II or part III of the Act which may be necessary to implement such functions.

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[3] The amendments of February 4, 1984 (49 F.R. 7018) added subsec. (i). Such amendments further stated that "Actions within the scope of this delegation heretofore taken by the official designated in such delegation are hereby ratified and confirmed."

[4] Subsec. (j) was added by State Department Delegation of Authority 145-5, January 22, 1988 (53 F.R. 5072).

Section 2. Functions Delegated to Other Agencies

The functions conferred on the President by section 620(s) of the Act are hereby delegated to the Director of the United States International Development Cooperation Agency,[5] who shall exercise such functions in consultation with the Under Secretary of State for Security Assistance, Science and Technology. The functions conferred on the President by section 534 of the Act, with the exception of those contained in subsection (b)(3), are hereby delegated to the Administrator of the Agency for International Development within the United States International Development Cooperation Agency, who shall exercise such functions in cooperation with the Assistant Secretary of State for Inter-American Affairs. [6]

Section 3.[7] Functions Reserved to the Secretary of State

There are hereby reserved to the Secretary of State:

(a) The functions conferred on the President by sections 239(g), 502B(a)(2), 505(b), 533(b), 614(b), 620(b), 620(c), 620(e)(1), 620(f), 620(g), 620(i), and 620(q) of the act.

(b) The functions of determining which are friendly nations within the meaning of section 107 of the Agricultural Trade Development and Assistance Act of 1954 for the purpose of negotiating and concluding agreements pursuant to the authority contained in section 3(a) of Executive Order 10900 of January 5, 1961.

Section 4.[7] General Provisions

(a) As used in this delegation of authority, the word "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(b) Any reference in this delegation of authority to any act, order, determination, delegation of authority, regulation, or procedure shall be deemed to be a reference to such act, order, determination, delegation of authority, regulation, or procedure as amended from time to time.

(c) Any reference in this delegation of authority to security assistance, shall be deemed to include all forms of security assistance, including assistance and training under part II of the act (including chapters 4 and 6 thereof), sales, exports, credits, and guaranties under the Arms Export Control Act, and naval vessel transfer as authorized by law.

(d) Notwithstanding any provision of this delegation of authority, the Secretary of State or the Deputy Secretary of State may at any time exercise any function delegated or reserved [8] by this delegation of authority.

(e) Any officer to whom functions are delegated [9] by this delegation of authority may, to the extent consistent with law:

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[5] Pursuant to IDCA Delegation of Authority No. 7 of July 29, 1980 (45 F.R. 52470) this function was redelegated to the Administer of AID.

[6] This last sentence was added by State Department Delegation of Authority 145-5, January 22, 1988 (53 F.R. 5072).

[7] The amendments of July 15, 1980 (45 F.R. 51974) redesignated existing secs. 2 and 3 as secs. 3 and 4, respectively, and added a new sec. 2.

[8] The words "to any officer of the Department of State" which previously appeared at this point, were struck out by the amendments of July 15, 1980 (45 F.R. 51974).

[9] The amendments of February 4, 1984 (49 F.R. 7018) added the words "or reserved".

(1) redelegate such functions and authorize their successive redelegation; and

(2) promulgate such rules and regulations as may be necessary to carry out such functions.

(f) State Department Delegation of Authority No. 104 of November 3, 1961 (26 F.R. 10608), as amended, is revoked.

(g) Except to the extent inconsistent with this delegation of authority, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this delegation of authority and not revoked, superseded, or otherwise made inapplicable before the effective date of this delegation of authority, shall continue in full force and effect until modified, amended, or terminated by appropriate authority.

CYRUS R. VANCE,
Secretary of State.

d. International Development Cooperation Agency Delegation of Authority No. 1, October 1, 1979, 44 F.R. 57521; as amended by amendment of October 31, 1980, 45 F.R. 74090

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY: FOREIGN ECONOMIC ASSISTANCE

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*) (hereinafte referred to as the Act), title IV of the International Development Cooperation Act of 1979 (22 U.S.C. 3501 *et seq.*), Executive Order No. 12163 of September 29, 1979 entitled "Administration of Foreign Assistance and Related Functions" (hereinafter referred to as the Executive Order), and Reorganization Plan No. 2 of 1979 (44 F.R. 41185), it is ordered as follows:

1-1. Concurrent Authority

1-101. Notwithstanding any provision of this Delegation of Authority, the Director of the United States International Development Cooperation Agency (hereinafter referred to as IDCA) may at any time exercise any function delegated by this Delegation of Authority.

1-2. Continuation of the Agency For International Development

1-201. The Agency for International Development (hereinafter referred to as AID), which was established in the Department of State pursuant to State Department Delegation of Authority No. 104, as amended, shall be continued in existence within IDCA headed by an Administrator (hereinafter referred to as the Administrator), as provided in sections 103(a) and 103(b) of the Executive Order. All delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, designations, and other actions made, issued or entered into under authority existing prior to the date of the Executive Order and not revoked, superseded, or otherwise made inapplicable before the effective date of this Delegation of Authority shall continue in full force and effect until amended, modified or terminated by appropriate authority.

1-202. The officers provided for in section 1-103(c) of the Executive Order shall continue to exercise such functions as the Administrator deems appropriate.

1-3. Functions of the Administrator

1-301. Exclusive of the functions otherwise delegated or reserved to the Director of IDCA herein, there are hereby delegated to the Administrator:

(a) The functions conferred upon the Director of IDCA by subsections 1-102(a)(1)-(4) and section 1-601 of the Executive Order.

(b) The functions and authorities contained in sections 125(a), 601(a) through (d), and 601(e)(2) of the Act conferred upon the Director of IDCA by Section 6 of Reorganization Plan No. 2 of 1979.

1-4. Functions of the Director of the Institute for Scientific and Technological Cooperation

1-401. Exclusive of the functions otherwise delegated, or reserved to the Director of IDCA herein, there are hereby delegated to the Director of the Institute for Scientific and Technological Cooperation (hereinafter referred to as the Institute) the functions conferred upon the Director of IDCA by subsection 1-102(a)(5) of the Executive Order.

1-5. Functions Delegated to the Administrator and to the Director of the Institute

1-501. There are hereby delegated to the Administrator and to the Director of the Institute, respectively, the functions that relate to the administration of the programs of AID and the Institute, respectively, as follows:

(a) The functions under sections 297(d), 299(a) and 625(a) of the Act.

(b) The functions under section 625(d)(1) of the Act, as provided in section 1-602(a) of the Executive Order.

(c) The functions conferred upon the Director of IDCA by section 4 of Executive Order 11223, as amended.

(d) The functions conferred upon the Director of IDCA by the Determination of the President pursuant to section 604(a) of the Act, dated October 18, 1961, as amended.

(e) The functions of negotiating, concluding, and terminating international agreements pursuant to the Act, Title IV of the International Development Cooperation Act of 1979, or the Latin American Development Act, shall be subject to the requirements of 1 U.S.C. 112b and to applicable regulations and procedures.

1-6. Functions Delegated to the Overseas Private Investment Corporation

1-601. Exclusive of the functions otherwise delegated, or reserved to the Director of IDCA herein, there are hereby delegated to the Overseas Private Investment Corporation:

(a) The functions under sections 621(b), 625(d)(1), 627, 628, 629(b), 630 and 635(d) of the Act insofar as such functions relate to the operations of the Overseas Private Investment Corporation, its activities, or personnel.

(b) The functions under section 237(a) of the Act, provided that such functions shall be exercised in consultation with the Director of IDCA.

1-7. Allocation of Funds

1-701. There are hereby allocated to the Administrator all funds made available for carrying out the Act allocated to the Director of IDCA by section 1-801(a) of the Executive Order.

1-702. There are hereby allocated to the Director of the Institute all funds made available for carrying out title IV of the International Development Cooperation Act of 1979, allocated to the Director of IDCA by section 1-801(a) of the Executive Order.

1-8. Functions Reserved to the Director of IDCA

1-801. There are hereby reserved to the Director of IDCA the functions conferred upon the President by:

(a) Sections 102(c), 120(b), 125(b), 209(c)-(d), 298(c)(6), 298(d), 300, 305, 493, 621A, 631(c) and 634B of the Act.

(b) Section 625(a) of the Act, with respect to personnel in IDCA, other than as delegated in section 1-5 of this delegation.

(c) Sections 403(e) and 411 of the International Development Cooperation Act of 1979.

1-802. The functions contained in sections 109, 632(a) (insofar as they relate to allocation or transfer of funds) and 653 of the Act delegated herein shall be exercised in consultation with the Director of IDCA.

1-9.[1] Personnel Authorities

1-901. The authority of the Administrator and the Director under section 625(a) of the Act, with respect to personnel in AID and the Institute respectively, shall include any authority available to me under any statute, regulation, or delegation of authority, relating to any aspect of personnel authority or administration, including, but not limited to:

(a) The Act;

(b) The Foreign Service Act of 1980, Public Law 96-465, 94 Stat. 2071;

(c) Title 5 of the United States Code; and

(d) Delegations of Authority from the Office of Personnel Management.

1-10. General Provisions

1-1001. Any reference in this Delegation of Authority to any act, order, determination, or delegation of authority shall be deemed to be a reference to such act, order, determination, or delegation of authority as amended from time to time.

1-1002. Any reference in this Delegation of Authority to provisions of any appropriation act shall be deemed to include a reference to any hereafter enacted provisions of law which are the same or substantially the same as such appropriation act provisions.

1-1003. The Administrator and the Director of the Institute may, to the extent consistent with law:

(a) Delegate or assign any of the functions delegated or assigned to them by this Delegation of Authority to any other officer of IDCA, including any component agency thereof, or to any officer of the Department of State; and

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[1] The amendment of Oct. 31, 1980 (45 F.R. 74090) restated sec. 1-901. Such section formerly concerned only Foreign Service personnel authorities.

(b) Authorize any officer to whom functions are so delegated or assigned to successively redelegate or reassign any of such functions.

1-1004. Functions conferred by this delegation shall be carried out in consultation with the heads of other departments and agencies as provided in Section 605 of the Executive Order.

1-11. Effective Date

1-1101. This delegation shall become effective as of October 1, 1979, except that delegations to the Director of the Institute contained herein shall not become effective until so ordered by the Director of IDCA.

THOMAS EHRLICH,
Director, United States International
Development Cooperation Agency.

e. International Development Cooperation Agency Delegation of Authority No. 2, October 29, 1979, 44 F.R. 65485 as amended and restated by amendment No. 1 of January 19, 1981, 46 F.R. 9261

SUCCESSION TO THE OFFICE OF DIRECTOR

Pursuant to the authority vested in the Director of the United States International Development Cooperation Agency by Section 2 of Reorganization Plan No. 2 of 1979 (44 F.R. 41165), it is directed as follows:

In the event of the absence or disability of the Director and the Deputy Director of the United States International Development Cooperation Agency (IDCA) or of vacancies in both such offices, the following IDCA officials shall act as Director: the Administrator or Acting Administrator of the Agency for International Development, or an IDCA official formally designated by said Administrator or Acting Administrator.

This amendment is effective immediately.

Dated: January 19, 1981.

THOMAS EHRLICH, *Director.*

f. Reorganization Plan No. 2 of 1979

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 10, 1979, pursuant to the provisions of chapter 9 of title 5 of the United States Code [1]

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Section 1. Establishment of the United States International Development Cooperation Agency.—There is hereby established in the executive branch an independent agency to be known as the United States International Development Cooperation Agency (hereinafter referred to as the "Agency").

Sec. 2. Director.—The Agency shall be headed by the Director of the United States International Development Cooperation Agency (hereinafter referred to as the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed by law for Level II of the Executive Schedule. The Director shall have primary responsibility for establishing overall development assistance policy and coordinating international development activities supported by the United States. The Director shall serve as the principal advisor to the President and the Secretary of State on international development matters and also shall advise the President on all trade, science and technology, and other matters significantly affecting the developing nations. The Director shall report to the President and, on matters relating to foreign policy, to the Secretary of State. The Director shall designate the order in which other officials shall act for and exercise the powers of the Director during the absence or disability of the Director and the Deputy Director or in the event of vacancies in both such offices.

Sec. 3.[1] Deputy Director.—The President, by and with the advice and consent of the Senate, may appoint a Deputy Director of the Agency, who shall receive compensation at the rate prescribed by law for Level III of the Executive Schedule. The Deputy Director shall perform such duties and exercise such powers as the Director may from time to time prescribe and, in addition, shall act for and exercise the powers of the Director during the absence or disability of the Director or during a vacancy in such office.

Sec. 4.[1] Associate Directors.—The President, by and with the advice and consent of the Senate, may appoint two Associate Directors of the Agency, who shall perform such duties and exercise such powers as the Director may from time to time prescribe and who shall receive compensation at the rate prescribed by law for Level IV of the Executive Schedule.

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[1] As amended May 21, 1979. Executive Order 12147, July 19, 1979 (44 F.R. 42957) specified that secs. 2, 3, and 4 of this plan would become effective immediately. Secs. 1, 5, 6, and 8 of the Plan became effective on Oct. 1, 1979, pursuant to Executive Order 12163, Sept. 29, 1979 (44 F.R. 56673). For complete text of Executive Order 12163, Administration of Foreign Assistance and Related Functions, see page 736.

Sec. 5. **Performance of functions.**—The Director may from time to time establish, alter, consolidate, or discontinue organizational units within the Agency (other than units expressly established by statute or reorganization plan). The Director may from time to time delegate responsibility for carrying out any function or authority of the Director of the Agency to any officer, employee, or unit of the Agency, or any other officer or agency of the executive branch.

Sec. 6. **Transfers of functions.**—(a) There are hereby transferred to the Director all functions and authorities vested in the Agency for International Development or in its administrator pursuant to the following:

(1) sections 233(b), 239(i), 296(e), 297(d), 298(c)(6), 299(d), 601 (a) through (d), and 624(f)(2)(C) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2193(b), 2199(i), 2220a(e), 2220b(d), 2220c(c)(6), 2220d(d), 2351 (a) through (d), and 2384(f)(2)(C));

(2) section 407 of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1736a); and

(3) section 706 of the Foreign Relations Authorization Act, Fiscal Year 1979 (49 U.S.C. 1518).

(b) There are hereby transferred to the Director all functions and authorities vested in the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, as amended, or in its Administrator pursuant to the following:

(1) sections 101(b), 119, 125, 531(a)(2), 601(e)(2), and 640B of such Act (22 U.S.C. 2151(b), 2151q, 2151w, 2346(a)(2), 2351(e)(2), and 2399c); and

(2) section 602 of the International Security Assistance and Arms Control Act of 1976 (22 U.S.C. 2352 note).

(c) There are hereby transferred to the Director all functions and authorities vested in the Secretary of State pursuant to the following:

(1) section 101(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151(b)), insofar as it relates to policy guidance other than foreign policy guidance, and section 622(c) of such Act (22 U.S.C. 2382(c)), insofar as it relates to development assistance; and

(2) section 901 of Public Law 95–118 (22 U.S.C. 262g).

Sec. 7. **Abolition.**—One of the positions that the President may appoint under section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a), 5 U.S.C. 5315(5)) is hereby abolished.

Sec. 8. **Other transfers; interim officers.**—(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions and authorities affected by the establishment of the Agency, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agency abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this reorganization plan.

(b) Pending the initial appointment of the Director, Deputy Director, and Associate Directors of the Agency, their functions and authorities may be performed, for up to 60 days after section 1 of this reorganization plan becomes effective, by such individuals as the President may designate. Any individual so designated shall be compensated at the rate provided herein for the position whose functions and authorities such individual performs.

Sec. 9. Effective date.—This reorganization plan shall become effective on July 1, 1980, or as such earlier time or times as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

g. Performance of Functions Authorized by the Foreign Assistance Act of 1961, as Amended

Executive Order 11223, May 12, 1965, 30 F.R. 6635, as amended by Executive Order 12163, September 29, 1979, 44 F.R. 56673; and by Executive Order 12178, December 10, 1979, 44 F.R. 71807

By virtue of the authority vested in me by section 633 of the Foreign Assistance Act of 1961, as amended, 75 Stat. 454 (22 U.S.C. 2393), it is hereby determined that, to the extent hereinafter indicated, the performance of functions authorized by that Act,[1] as amended, and any predecessor legislation, without regard to the laws specified in the numbered subdivisions of sections 1 and 2 of this order and without regard to consideration as specified in sections 3 and 4 of this order will further the purposes of the Foreign Assistance Act of 1961, as amended:

Section 1. With respect to functions authorized by the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 et seq.), and any predecessor legislation except those functions exercised by the Department of Defense under authority of sections 621 and 623 of the Foreign Assistance Act of 1961 (22 U.S.C. 2381 and 2383):

(1) The Act of March 26, 1934, 48 Stat. 500, as amended (15 U.S.C. 616a).

(2) Section 3648 of the Revised Statutes, as amended, 60 Stat. 809 (31 U.S.C. 529).

(3) Section 305 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 396, as amended (41 U.S.C. 255).

(4) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5).

(5) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(6) Section 2 of title III of the Act of March 3, 1933, 47 Stat. 1520 (41 U.S.C. 10a).

(7) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(8) Section 304(c) of the Federal Property and Administrative Services Act of 1949, as added by the Act of October 31, 1951, 65 Stat. 700 (41 U.S.C. 254(c)), but only with respect to contracts entered into with foreign governments or agencies thereof for the rendering of services to the United States or an agency thereof within the continental limits of the United States.

(9) Section 901(a) of the Merchant Marine Act, 1936, 49 Stat. 2015, as amended (46 U.S.C. 1241(a)).

Sec. 2. With respect to purchases authorized to be made outside the limits of the United States or the District of Columbia under the Foreign Assistance Act of 1961, as amended, and any predecessor legislation:

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[1] Sec. 1-903(d) of Executive Order 12163 provided that the reference in this Executive Order "to 'the performance of functions authorized by this Act' shall be deemed to include the performance of functions authorized by sec. 403 of the IDC Act of 1979." Such sec. 403 of the International Development Cooperation Act of 1979 specified the functions of the Institute for Scientific and Technological Cooperation.

(1) Section 2276(a) of Title 10 of the United States Code.

(2) Section 2313(b) of Title 10 of the United States Code.

(3) Section 304(c) of the Federal Property and Administrative Services Act of 1949, as added by the Act of October 31, 1951, 65 Stat. 700 (41 U.S.C. 254(c)).

(4) Section 1301 of the Second War Powers Act, 1942, 56 Stat. 185 (50 U.S.C. App. 643), as extended by the provisions of the Act of June 30, 1953, 67 Stat. 120.

(5) Section 3(b) of the Act of August 28, 1958, 72 Stat. 972 (50 U.S.C. 1433(b)), but only with respect to contracts in which the inclusion of the clause required by section 3(b), or the compliance with that clause, if included in a contract, is deemed by the executive or military department concerned to be impracticable.

Sec. 3. With respect to cost-type contracts heretofore or hereafter made with non-profit institutions under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

Sec. 4. With respect to contracts heretofore or hereafter made, other than those described in section 3 of this order, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof, if the Secretary of State or the Director of the United States International Development Cooperation Agency (with respect to functions vested in or delegated to the Director) [2] determines in each case that such action is necessary to protect the foreign policy interests of the United States.

Sec. 5. Executive Order No. 10784 of October 1, 1958, and Executive Order No. 10845 of October 12, 1959, are hereby superseded.

Sec. 6.[3] I determine it to be in furtherance of the purposes of the Foreign Assistance Act of 1961, as amended, and in the national security interest of the United States that the functions authorized by chapter 7 of Part II of that Act, relating to air base construction in Israel, be performed without regard to the following additional specified provisions of law:

(1) Title IX of the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. 541–544);

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[2] The reference to the Director of IDCA was added by sec. 1-903(b)(5) of Executive Order 12163, Sept. 29, 1979 (44 F.R. 59673).

[3] Sec. 6 was added by Executive Order 12178, Dec. 10, 1979 (44 F.R. 71807).

(2) Section 612 of the Military Construction Authorization Act, 1967, as amended (31 U.S.C. 723a);

(3) Section 719 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2168); and

(4) Section 111 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759).

LYNDON B. JOHNSON.

THE WHITE HOUSE, *May 12, 1965.*

h. Overseas Private Investment Corporation

Executive Order 11579, January 19, 1971, 36 F.R. 969, January 21, 1971, as amended by Executive Order 12163, September 29, 1979, 44 F.R.

By virtue of the authority vested in me by the Foreign Assistance Act of 1961 (75 Stat. 424), as amended (hereinafter the "Act"), and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Section 1. Transfer to Overseas Private Investment Corporation. All obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 234 (a), (b) and (d) of the Act are hereby transferred to the Overseas Private Investment Corporation (hereinafter the "Corporation").

Sec. 2. Delegation of functions. (a)[1] * * * [Revoked—1979]

(b) The function of prescribing regulations relating to the reinstatement or restoration of officers and employees of the Corporation to other government positions, when their appointment to a position in the Corporation was made from another government position and their separation from the Corporation was not made for cause, is hereby delegated to the Civil Service Commission.

Sec. 3. Allocation and transfer of funds. Funds made available under section 232 of the Act (repealed by section 105 of the Foreign Assistance Act of 1969) which are obligated but unexpended are hereby transferred to the Corporation.

Sec. 4. General provisions. (a) As used in this order, the words "function" or "functions" include any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(b) The Corporation shall be deemed to be the successor of the Agency for International Development and the Administrator thereof, with respect to all functions vested in the Corporation pursuant to law.

(c) Except to the extent that they may be inconsistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

(d) Executive Order No. 10973 of November 3, 1961, as amended,[2] is hereby superseded insofar as any provision therein is in conflict with any provision herein.

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[1] Subsec. (a) was revoked by sec. 1-903(a)(2) of Executive Order 12163, Sept. 29, 1979 (44 F.R. 56673).

[2] Revoked by Executive Order 12163, Sept. 29, 1979.

(e) The provisions of this order shall become effective upon adoption by the Board of Directors of bylaws for the Corporation.

RICHARD NIXON.

THE WHITE HOUSE, *January 19, 1971.*

i. Inspection of Foreign Assistance Programs

Executive Order 12066, June 29, 1978, 43 F.R. 28965

By the authority vested in me as President of the United States of America by Section 124 of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 95 Stat. 541) and Section 301 of Title 3 of the United States Code, and in order to assist the Secretary of State in carrying out his responsibilities under Section 622(c) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2382(c)), hereafter referred to as the Act, it is hereby ordered as follows:

1–1. Assignment of Duties and Responsibilities.

1–101. I hereby direct the Secretary of State to assign to the Inspector General, Foreign Service, all duties and responsibilities vested in the Inspector General, Foreign Assistance by Section 624(d) of the Act (22 U.S.C. 2384(d)).

1–102. Having determined that all of the authorities vested in the Inspector General, Foreign Assistance, by Section 624(d) of the Act are necessary for the Inspector General, Foreign Service, to carry out the duties and responsibilities assigned to him pursuant to this Order, I hereby authorize the Inspector General, Foreign Service, to exercise all such authorities subject to the provisions of Section 1–2 of this Order.

1–2. Performance of Duties and Responsibilities.

1–201. In carrying out his duties and responsibilities and in exercising his authorities pursuant to this Executive Order, the Inspector General, Foreign Service, shall not duplicate the scope of the audit, investigation and inspection authorities of the other agencies, including those of the Inspectors General of the armed services, and shall concentrate upon matters that have substantial and direct impact upon the responsibilities of the Secretary of State under Section 622(c) of the Act.

1–202. The authority described in Section 624(d)(6) of the Act shall be exercised by the Inspector General, Foreign Service, only with the specific consent of the Secretary of State and in accordance with regulations prescribed by the Secretary of State which, whenever practical, afford the head of any agency whose programs are subject to audit, review or inspection pursuant to such Section a reasonable opportunity to take corrective action before any suspension takes effect.

1–3. Administrative Matters.

1–301. The Secretary of State shall provide for the appropriate transfer of offices, entities, property, and records of the Office of the Inspector General, Foreign Assistance to the Office of the Inspector General, Foreign Service.

1-302. This Executive Order is effective July 1, 1978.

JIMMY CARTER.

THE WHITE HOUSE, *June 29, 1978.*

j. Administration of Arms Export Controls

Executive Order 11958, January 18, 1977, 42 F.R. 4311,[1] as amended by Executive Order 12118, February 6, 1979, 44 F.R. 7939; Executive Order 12163, September 29, 1979, 44 F.R. 56673; Executive Order 12210, April 16, 1980, 45 F.R. 26313; Executive Order 12321, September 14, 1981, 46 F.R. 46109; Executive Order 12365, May 24, 1982, 47 F.R. 22933; Executive Order 12423, May 26, 1983, 48 F.R. 24025; and by Executive Order 12560, May 24, 1986, 51 F.R. 19160

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Arms Export Control Act, as amended (22 U.S.C. 2751 *et seq.*), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

Section 1. Delegation of Functions. The following functions conferred upon the President by the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), hereinafter referred to as the Act, are delegated as follows:

(a) Those under Section 3 of the Act, with the exception of subsections (a)(1), (b), (c)(3), (c)(4), and (f),[2] to the Secretary of State: *Provided,* That the Secretary of State, in the implementation of the functions delegated to him under Sections 3 (a) and (d) of the Act, is authorized to find, in the case of a proposed transfer of a defense article or related training or other defense service by a foreign country or international organization not otherwise eligible under Section 3(a)(1) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace.

(b) Those under Section 5 to the Secretary of State.

(c) Those under Section 21 of the Act, with the exception of the last sentence of subsection (d) and all of subsection (i), to the Secretary of Defense.[3]

(d) Those under Sections 22(a), 29, 30 and 30A of the Act to the Secretary of Defense.[4]

(e)[5] Those under Section 23 of the Act to the Secretary of Defense, to be exercised in consultation with the Secretary of State and the Secretary of the Treasury, except that the President shall determine any rate of interest to be charged which is less than the market rate of interest.

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[1] This Executive Order superseded Executive Order 11501, Dec. 22, 1969 (34 F.R. 20169), as amended by Executive Order 11685, Sept. 27, 1972 (37 F.R. 20155).

[2] The reference to subsec. (f) was added by sec. 1-107 of Executive Order 12118, Feb. 6, 1979 (44 F.R. 7939).

[3] The reference to subsec. (i) was substituted in place of a reference to subsec. (h) by sec. 1-101 of Executive Order 12210, Apr. 16, 1980 (45 F.R. 26313).

[4] The reference to sec. 29 was added by sec. 2 of Executive Order 12321, Sept. 14, 1981 (46 F.R. 46109). The reference to sec. 30 was added by sec. 2 of Executive Order 12423, May 26, 1983 (48 F.R. 24025). The reference to sec. 30A was added by Executive Order 12560, May 24, 1986 (51 F.R. 19160).

[5] Sec. 12 of Executive Order 12560, May 24, 1986 (51 F.R. 19160), amended and restated sec. 1(e). Previously, sec. 1(e) read as follows: "Those under Section 23 of the Act, with the exception of the function of certifying a rate of interest to the Congress as provided by paragraph (2) of that Section, to the Secretary of Defense.".

(f)[6] Those under Sections 24, 27 and 28 of the Act to the Secretary of Defense. The Secretary of Defense, in implementing the functions delegated to him under Sections 24[7] and 27, shall consult with the Secretary of State and the Secretary of the Treasury.

(g) Those under Section 25 of the Act to the Secretary of State. The Secretary of Defense and the Director of the Arms Control and Disarmament Agency, within their respective areas of responsibility, shall assist the Secretary of State in the preparation of materials for presentation to the Congress under that Section.

(h) Those under Section 34 of the Act to the Secretary of State. To the extent the standards and criteria for credit and guaranty transactions are based upon national security and financial policies, the Secretary of State shall obtain the prior concurrence of the Secretary of Defense and the Secretary of the Treasury, respectively.

(i) Those under Section 35(a) of the Act to the Secretary of State.

(j) Those under Sections 36(a) and 36(b)(1) of the Act, except with respect to the certification of an emergency as provided by subsection (b)(1), to the Secretary of Defense. The Secretary of Defense, in the implementation of the functions delegated to him under Sections 36 (a) and (b)(1) shall consult with the Secretary of State, who shall, with respect to matters related to subparagraphs (D) and (I) of Section 36(b)(1), consult with the Director of the Arms Control and Disarmament Agency. With respect to those functions under Sections 36(a) (5) and (6), the Secretary of Defense shall consult with the Director of the Office of Management and Budget.

(k) Those under Sections 36 (c) and (d) of the Act to the Secretary of State.

(l) Those under Section 38 of the Act:

(1) to the Secretary of State, except as otherwise provided in this subsection. Designations, including changes in designations, by the Secretary of State of items or categories of items which shall be considered as defense articles and defense services subject to export control under Section 38 shall have the concurrence of the Secretary of Defense;

(2) to the Secretary of the Treasury, to the extent they relate to the control of the import of defense articles and defense services. In carrying out such functions, the Secretary of the Treasury shall be guided by the views of the Secretary of State on matters affecting world peace, and the external security and foreign policy of the United States. Designations including changes in designations, by the Secretary of the Treasury of items or categories of items which shall be considered as defense articles and defense services subject to import control under Section 38 of the Act shall have the concurrence of the Secretary of State and the Secretary of Defense;

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[6] The delegation of functions under secs. 27 and 28 were added by sec. 1-102 of Executive Order 12210, Apr. 16, 1980 (45 F.R. 26313).

[7] Section 24 and the reference to the Secretary of the Treasury were added by sec. 13 of Executive Order 12560, May 24, 1986 (51 F.R. 19160).

(3) to the Secretary of Commerce, to carry out on behalf of the Secretary of State, to the extent such functions involve Section 38(e) of the Act and are agreed to by the Secretary of State and the Secretary of Commerce.

(m) Those under Section 39(b) of the Act to the Secretary of State. In carrying out such functions, the Secretary of State shall consult with the Secretary of Defense as may be necessary to avoid interference in the application of Department of Defense regulations to sales made under Section 22 of the Act.

(n) Those under Sections 42 (c) and (f) of the Act to the Secretary of Defense. The Secretary of Defense shall obtain concurrence of the Secretary of State and the Secretary of the Treasury on any determination proposed under the authority of Section 42(c) of the Act.[8]

(o)[9] Those under Sections 52(b) and 53 of the Act to the Secretary of Defense.

(p)[10] Those under Sections 61 and 62(a) of the Act to the Secretary of Defense.

Sec. 2. Coordination. (a) In addition to the specific provisions of Section 1 of this Order, the Secretary of State and the Secretary of Defense, in carrying out the functions delegated to them under this Order, shall consult with each other and with the heads of other departments and agencies, including the Secretary of the Treasury, the Director of the United States International Development Cooperation Agency,[11] and the Director of the Arms Control and Disarmament Agency, on matters pertaining to their responsibilities.

(b) In accordance with Section 2(b) of the Act and under the directions of the President, the Secretary of State, taking into account other United States activities abroad, shall be responsible for the continuous supervision and general direction of sales and exports under the Act, including but not limited to, the negotiation, conclusion, and termination of international agreements, and determining whether there shall be a sale to a country and the amount thereof, and whether there shall be delivery or other performance under such sale or export, to the end that sales and exports are integrated with other United States activities and the foreign policy of the United States is best served thereby.

Sec. 3. Allocation of Funds. Funds appropriated to the President for carrying out the Act shall be deemed to be allocated to the Secretary of Defense without any further action of the President.

Sec. 4. Revocation. Executive Order No. 11501, as amended, is revoked; except that, to the extent consistent with this Order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements and other actions made, issued, taken or entered into under the provisions of Executive Order No. 11501, as amended, and not revoked, superseded or otherwise made inapplicable, shall continue in full force and effect until amended, modified or terminated by appropriate authority.

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[8] This sentence was added by sec. 2(a) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

[9] Subsec. (o), which was originally added by sec. 1-103 of Executive Order 12210, was amended and restated by sec. 2(b) of Executive Order 12365, May 24, 1982 (47 F.R. 22933). Previously, subsec. (o) delegated functions under sec. 43(c) of the Arms Export Control Act to the Secretary of Defense.

[10] Subsec. (p) was added by sec. 2(c) of Executive Order 12365, May 24, 1982 (47 F.R. 22933).

[11] This reference to the Director of IDCA was substituted in lieu of a reference to the Administrator of AID by sec. 1-903(h)(4) of Executive Order 12163, Sept. 29, 1979 (44 F.R. 56679).

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5. Armed Forces Legislation

a. Title 10, United States Code

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§ 113.[1] **Secretary of Defense * * ***

(e)(1)[2] The Secretary shall include in his annual report to Congress under subsection (c)—

(A) a description of the major military missions and of the military force structure of the United States for the next fiscal year;

(B) an explanation of the relationship of those military missions to that force structure; and

(C) the justification for those military missions and that force structure.

(2) In preparing the matter referred to in paragraph (1), the Secretary shall take into consideration the content of the annual national security strategy report of the President under section 104 of the National Security Act of 1947 for the fiscal year concerned.[3]

* * * * * * *

(i)[4] The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the amount of funds to be appropriated to the Department of Defense for the next fiscal year for functions relating to the formulation and carrying out of Department of Defense policies on the control of technology transfer and activities related to the control of technology transfer. The Secretary shall include in that report the proposed allocation of the funds requested for such purpose and the number of personnel proposed to be assigned to carry out such activities during such fiscal year.

(j)[5] (1)[6] The Secretary of Defense shall transmit to Congress each year a report that contains a comprehensive net assessment of the defense capabilities and programs of the armed forces of the

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[1] Sec. 113 was originally codified at sec. 133 of title 10. Public Law 99-433 (Department of Defense Reorganization Act of 1986) redesignated sec. 133 of title 10 as sec. 113 and modified the section title.

[2] Subsec. (e) was comprehensively amended by sec. 603 of Public Law 99-433, 100 Stat. 1074 (DOD Reorganization Act of 1986).

[3] For text of sec. 104 of the National Security Act of 1947, 50 U.S.C. 404a, see vol. IV, sec. N.

[4] Subsec. (i) was originally enacted by sec. 1105 of the DOD Authorization Act, 1983 (Public Law 97-252; 96 Stat. 739) as subsec. (h) of sec. 138 (now sec. 114). Public Law 99-433 (DOD Reorganization Act of 1986) redesignated it as a subsec. of sec. 113.

[5] Subsec. (j) was added by sec. 1214 of the National Defense Authorization Act, 1988 and 1989 (Public Law 100-180; 101 Stat. 1157).

[6] Sec. 731 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456, 102 Stat. 2003) added the designation "(1)", and added new "(2)" and "(3)".

United States and its allies as compared with those of their potential adversaries.[7]

(k)[8] (1) Not later than April 8 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and Committees on Appropriations of the Senate and House of Representatives a report on the cost of stationing United States forces outside of the United States. Each such report shall include a detailed statement of the following:

(A) Costs incurred in the United States and costs incurred outside the United States in connection with the stationing of United States forces outside the United States.

(B) The costs incurred outside the United States in connection with operating, maintaining, and supporting United States forces outside the United States, including all direct and indirect expenditures of United States funds in connection with such stationing.

(C) The effect of such expenditures outside the United States on the balance of payments of the United States.

(2) Each report under this subsection shall be prepared in consultation with the Secretary of Commerce.

(3) In this subsection, the term "United States", when used in a geographic sense, includes the territories and possessions of the United States.

(2)[6] Each such report shall—

(A) include a comparison of the defense capabilities and programs of the armed forces of the United States and its allies with the armed forces of potential adversaries of the United States and allies of the United States;

(B) include an examination of the trends experienced in those capabilities and programs during the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities and programs during the five years covered by the Five-Year Defense Program submitted to Congress during that year pursuant to section 114(g) of this title;

(C) reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

(D) identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

(3)[6] The Secretary shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in that year. Such report shall be transmitted in both classified and unclassified form.

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[7] Sec. 731 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456, 102 Stat. 2003) struck out the following sentence at this point: "Each such report shall be transmitted in both a classified and an unclassified form."

[8] Sec. 1(o)(1) of Public Law 100-370 (102 Stat. 850) added subsec. (k).

(l)[9] The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the commanders of the combatant commands written guidelines to direct the effective detection and monitoring of all potential aerial and maritime threats to the national security of the United States. Those guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which the guidelines are to be in effect.

§ 114.[10] Annual authorization of appropriations * * *

(c)[11] The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.) may not exceed $1,070,000,000.[12]

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§ 117.[13] Annual report on North Atlantic Treaty Organization readiness

(a) The Secretary of Defense shall assess and make findings each year with respect to the readiness status of the military forces of the North Atlantic Treaty Organization. The Secretary shall submit a report of the assessment and findings to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives on the same date that the President submits the Budget to Congress.

(b) The report under subsection (a) shall include the assessment and findings of the Secretary with respect to—

(1) deficiencies in the readiness of the North Atlantic Treaty Organization (including an analysis of deficiencies in each member of the Organization) related to—

(A) war reserve stocks;

(B) command, control, and communications systems (including the susceptibility of those systems to degradation by potential overt activities of the Warsaw Pact);

(C) electronic warfare capabilities;

(D) chemical warfare capabilities;

(E) air defense capabilities (including ground and air systems and the integration of ground systems with air systems);

(F) armor and anti-armor capabilities;

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[9] Sec. 1101 of Public Law 100–456 (102 Stat. 2042) added subsec. l.

[10] Sec. 114 was originally codified at sec. 138 of title 10. Public Law 99–433 (Department of Defense Reorganization Act of 1986) redesignated sec. 138 of title 10 as sec. 114 and modified the section title.

[11] Subsec. (c) was originally enacted by sec. 108(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 96 Stat. 1519) and codified at subsec. (g) of sec. 138 (now 114). Public Law 99–433 redesignated subsec. (g) as subsec. (c).

[12] Earlier limits included program ceilings of $300,000,000 for fiscal year 1982; $600,000,000 for fiscal year 1983 and $900,000 for fiscal year 1984 and any fiscal year thereafter. The Department of Defense Authorization Act, 1986, sec. 1403, (Public Law 99–145; 99 Stat. 743) changed the amount of the program ceiling to $1,000,000,000. Sec. 1304(a) of Public Law 99–661 increased the ceiling to $1,070,000,000. For the text of chapter 5 of the Arms Export Control Act, see page 309.

[13] Sec. 117 was originally enacted as sec. 808 of Public Law 96–107 (DOD Authorization Act, 1980). Public Law 97–295 (96 Stat. 1287) made technical changes to the text of sec. 808, codified it at 10 U.S.C. 133a, and repealed sec. 808 of Public Law 96–107. Public Law 99–433 (Department of Defense Reorganization Act of 1986) redesignated sec. 133a as sec. 117 and modified the section title. See also the NATO Mutual Support Act, vol. II, sec. G.

(G) firepower capabilities;

(H) forward deployed units and the proximity of those units to assigned general defensive positions;

(I) the availability of ammunition;

(J) the availability, responsiveness, and overall effectiveness of reserve forces;

(K) airlift capabilities to meet reinforcement and resupply requirements;

(L) the ability to protect, cross-service, and stage air assets from allied airfields;

(M) the maritime force capabilities (including sealift, minelaying, and minesweeping capabilities);

(N) logistical support arrangements (including the availability of ports, airfields, transportation, and host nation support);

(O) training (including the availability of the facilities and equipment needed to conduct realistic operational exercises); and

(P) the compatibility of operational doctrine and procedures among military forces of the member nations;

(2) planned corrections in the identified readiness deficiencies of the United States with respect to the Organization and that part of the Budget submitted to Congress by the President on the date the report is submitted that is allocated for the corrections; and

(3) commitments made by other members of the Organization to correct their own readiness deficiencies (including deficiencies in the items listed in paragraph (1)) and an identification of particular improvements to be made in readiness by weapon system, program, or activity.

§ 118.[14] Sale or transfer of defense articles: reports to Congress

When there is a letter of offer to sell or a proposal to transfer defense articles that are valued at $50,000,000 or more from the inventories of a regular component of the armed forces or from current production, the Secretary of Defense shall submit a report to Congress stating—

(1) the impact of the sale or transfer on the current readiness of the armed forces;

(2) the adequacy of reimbursements to cover, at the time of replenishment of United States inventories, the replacement costs of those items sold or transferred; and

(3) for each article to be sold—

(A) the initial issue quantity requirement for the armed forces for that article;

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[14] Sec. 118 was originally enacted as sec. 813 of Public Law 94–106 (DOD Authorization Act, 1976). Sec. 814 of Public Law 95–79 (DOD Authorization Act, 1978) amended sec. 813 by adding the requirement for information contained in par. (3). Sec. 1104 of Public Law 97–252 (DOD Authorization Act, 1983) further amended sec. 813 by increasing the dollar amount specified in the first sentence from $25,000,000 to $50,000,000. Public Law 97–295 (96 Stat. 1287) made technical changes to the text of sec. 813, codified it at 10 U.S.C. 133b, and repealed sec. 813 of Public Law 94–106, sec. 814 of Public Law 95–79, and sec. 1104 of Public Law 97–252. Public Law 99–433 (Department of Defense Reorganization Act of 1986) redesignated sec. 133b of title 10 as sec. 118.

(B) the percentage of that requirement already delivered to the armed forces or contracted for at the time of the report;

(C) the timetable for meeting that requirement absent the proposed sale; and

(D) the timetable for meeting that requirement if the sale is approved.

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§ 371.[15] Use of information collected during military operations

(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

§ 372.[15] Use of military equipment and facilities

The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

§ 373.[15] Training and advising civilian law enforcement officials

The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and

(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

§ 374.[15] Maintenance and operation of equipment

(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 of this title.

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[15] Sec. 1104 of Public Law 100–456 (102 Stat. 2042) substantially revised Chapter 8–Military Support for Civilian Law Enforcement Agencies. Secs. 371 through 380 were enacted by this sec. 1104.

(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of Defense personnel available to operate equipment (including equipment made available under section 372 of this title) with respect to—

(A) a criminal violation of a provision of law specified in paragraph (4)(A); or

(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws.

(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

(A) Detection, monitoring, and communication of the movement of air and sea traffic.

(B) Aerial reconnaissance.

(C) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

(D) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

(E) Subject to joint approval by the Secretary of Defense, the Attorney General, and the Secretary of State, in connection with a law enforcement operation outside the land area of the United States—

(i) the transportation of civilian law enforcement personnel; and

(ii) the operation of a base of operations for civilian law enforcement personnel.

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(C) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

(4) In this subsection:

(A) The term 'Federal law enforcement agency' means an agency with jurisdiction to enforce any of the following:

(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324-1328).

(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States) or any other territory or possession of the United States.

(iv) The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(B) The term 'land area of the United States' includes the land area of any territory, commonwealth, or possession of the United States.

(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in paragraph (2) only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

§ 375.[15] Restriction on direct participation by military personnel

The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any support (including the provision of any equipment or facility or the assignment or detail of any personnel) to any civilian law enforcement official under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search and seizure, an arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

§ 376.[15] Support not to affect adversely military preparedness

Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

§ 377.[15] Reimbursement

(a) To the extent otherwise required by section 1535 of title 31 (popularly known as the 'Economy Act') or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

(b) An agency to which support is provided under this chapter is not required to reimburse the Department of Defense for such support if such support—

(1) is provided in the normal course of military training or operations; or

(2) results in a benefit to the element of the Department of Defense providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

§ 378.[15] Nonpreemption of other law

Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

§ 379.[15] Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) of this title.

(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States (as defined in section 374(b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

§ 380.[15] Enhancement of cooperation with civilian law enforcement officials

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

(b) Each briefing conducted under subsection (a) shall include the following:

(1) An explanation of the procedures for civilian law enforcement officials—

(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

(B) to obtain surplus military equipment.

(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

(c) The Attorney General and the Administrator of General Services shall—

(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.

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§ 401.[16] Humanitarian and civic assistance provided in conjunction with military operations

(a)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian and civic assistance activities in conjunction with authorized military operations of the armed forces in a country if the Secretary concerned determines that the activities will promote—

(A) the security interests of both the United States and the country in which the activities are to be carried out; and

(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

(2) Humanitarian and civic assistance activities carried out under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States. Such activities shall serve the basic economic and social needs of the people of the country concerned.

(3) Humanitarian and civic assistance may not be provided under this section (directly or indirectly) to any individual, group, or organization engaged in military or paramilitary activity.

(b) Humanitarian and civic assistance may not be provided under this section to any foreign country unless the Secretary of State specifically approves the provision of such assistance.

(c)(1) Expenses incurred as a direct result of providing humanitarian and civic assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for such purpose.

(2) Nothing in this section may be interpreted to preclude the incurring of minimal expenditures by the Department of Defense for purposes of humanitarian and civic assistance out of funds other than funds appropriated pursuant to paragraph (1).[17]

(d) The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report, not later than March 1 of each year, on activities carried out under this section during the preceding fiscal year. The Secretary shall include in each such report—

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[16] Sec 401 was originally enacted by Sec. 333 of Public Law 99-661 (100 Stat. 3816), and codified at sections 401 through 406 of title 10. Public Law 100-180 (National Defense Authorization Act, 1988 and 1989) consolidated sections 401-406 into sec. 401, made technical changes and modified the section title.

[17] Sec. 1233(g)(1) of Public Law 100-456 (102 Stat. 2058) struck out "subsection (1)" at this point and inserted "paragraph (1)".

(1) a list of the countries in which humanitarian and civic assistance activities were carried out during the preceding fiscal year;

(2) the type and description of such activities carried out in each country during the preceding fiscal year; and

(3) the amount expended in carrying out each such activity in each such country during the preceding fiscal year.

(e) In this section, the term "humanitarian and civic assistance" means—

(1) medical, dental, and veterinary care provided in rural areas of a country;

(2) construction of rudimentary surface transportation systems;

(3) well drilling and construction of basic sanitation facilities; and

(4) rudimentary construction and repair of pubic facilities.

(f) Not more than $16,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.

§ 402. [18] Transportation of humanitarian relief supplies to foreign countries

(a) Notwithstanding any other provision of law, and subject to subsection (b), the Secretary of Defense may transport to any country, without charge, supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such supplies may be transported only on a space available basis.

(b)(1) The Secretary may not transport supplies under subsection (a) unless the Secretary determines that—

(A) the transportation of such supplies is consistent with the foreign policy of the United States;

(B) the supplies to be transported are suitable for humanitarian purposes and are in usable condition;

(C) there is a legitimate humanitarian need for such supplies by the people for whom they are intended;

(D) the supplies will in fact be used for humanitarian purposes; and

(E) adequate arrangements have been made for the distribution of such supplies in the destination country.

(2) The President shall establish procedures for making the determinations required under paragraph (1). Such procedures shall include inspection of supplies before acceptance for transport.

(3) It shall be the responsibility of the donor to ensure that supplies to be transported under this section are suitable for transport.

(c)(1) Supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private nonprofit relief organization.

(2) Supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

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[18] Sec. 402 was enacted by sec. 332 of the National Defense Authorization Act, FY 1988-89 (Public Law 100-180, 101 Stat. 1079).

(d) At the end of each six-month period, the Secretary of State shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report identifying the origin, contents, destination, and disposition of all supplies transported under this section during such six-month period.

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§ 975.[19] Prohibition on the sale of certain defense articles from the stocks of the Department of Defense

(a)(1) Except as provided in subsections (b) and (c), the sale outside the Department of Defense of any defense article designated or otherwise classified as Prepositioned Material Configured to Unit Sets, as decrement stock, or as Prepositioned War Reserve Stocks for United States Forces is prohibited.

(2) In this section, the term "decrement stock" means such stock as is needed to bring the armed forces from a peace time level of readiness to a combat level of readiness.

(b) The President may authorize the sale outside the Department of Defense of a defense article described in subsection (a) if—

(1) he determines that there is an international crisis affecting the national security of the United States and the sale of such article is in the best interests of the United States; and

(2) he reports to the Congress not later than 60 days after the transfer of such article a plan for the prompt replenishment of the stocks of such article and the planned budget request to begin implementation of that plan.

(c)(1) Nothing in this section shall preclude the sale of stocks which have been designated for replacement, substitution, or elimination or which have been designated for sale to provide funds to procure higher priority stocks.

(2) Nothing in this section shall preclude the transfer or sale of equipment to other members of the North Atlantic Treaty Organization.

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§ 2010.[20] Participation of developing countries in combined exercises: payment of incremental expenses

(a) The Secretary of Defense, after consultation with the Secretary of State, may pay the incremental expenses of a developing country that are incurred by that country as the direct result of participation in a bilateral or multilateral military exercise if—

(1) the exercise is undertaken primarily to enhance the security interests of the United States; and

(2) the Secretary of Defense determines that the participation by such country is necessary to the achievement of the fundamental objectives of the exercise and that those objectives cannot be achieved unless the United States provides the incremental expenses incurred by such country.

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[19] Sec. 975 was enacted by sec. 815(a) of the DOD Authorization Act, 1979 (Public Law 95-485, 96 Stat. 1625).

[20] Sec. 2010 was added by sec. 1321 of Public Law 99-661 (100 Stat. 3816).

(b) The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing—

(1) a list of the developing countries for which expenses have been paid by the United States under this section during the preceding year; and

(2) the amounts expended on behalf of each government.

(c) The Secretary of Defense shall establish by regulation such accounting procedures as may be necessary to ensure that funds expended under this section are properly expended.

(d) In this section, the term "incremental expenses" means the reasonable and proper cost of the goods and services that are consumed by a developing country as a direct result of that country's participation in a bilateral or multilateral military exercise with the United States, including rations, fuel, training ammunition, and transportation. Such term does not include pay, allowances, and other normal costs of such country's personnel.

(e) Not more than $13,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.

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§ 2208. Working-capital funds * * *

(i)(1) [21] Regulations under subsection (h) may authorize an article manufactured by a working-capital funded Departments of the Army arsenal that manufactures large caliber cannons, gun mounts, or recoil mechanisms to be sold to a person outside the Department of Defense if—

(A) the article is sold to a United States manufacturer, assembler, or developer (i) for use in developing new products, or (ii) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States or a friendly foreign government;

(B) the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

(C) the article is not readily available from a commercial source in the United States; and

(D) the sale is to be made on a basis that does not interfere with performance of work by the arsenal for the Department of Defense or for a contractor of the Department of Defense.

(2) Services related to an article sold under this subsection may also be sold to the purchaser if the services are to be performed in the United States for the purchaser.

(3) Nothing in this subsection shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this subsection.

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[21] Sec. 2208(i) was enacted by sec. 305 of the DOD Authorization Act, 1985 (Public Law 98–525, 98 Stat. 2492 at 2513).

§ 2213.[22] Cooperative military airlift agreements

(a) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into cooperative military airlift agreements with the government of any allied country for the transportation of the personnel and cargo of the military forces of that country on aircraft operated by or for the military forces of the United States in return for the reciprocal transportation of the personnel and cargo of the military forces of the United States on aircraft operated by or for the military forces of that allied country. Any such agreement shall include the following terms:

(1) The rate of reimbursement for transportation provided shall be the same for each party and shall be not less than the rate charged to military forces of the United States, as determined by the Secretary of Defense under section 2208(h) of this title.

(2) Credits and liabilities accrued as a result of providing or receiving transportation shall be liquidated not less often than once every 3 months by direct payment to the country that has provided the greater amount of transportation.

(3) During peacetime, the only military airlift capacity that may be used to provide transportation is that capacity that (A) is not needed to meet the transportation requirements of the military forces of the country providing the transportation, and (B) was not created solely to accommodate the requirements of the military forces of the country receiving the transportation.

(4) Defense articles purchased by an allied country from the United States under the Arms Export Control Act (22 U.S.C. 2751 et seq.) or from a commercial source under the export controls of the Arms Export Control Act may not be transported (for the purpose of delivery incident to the purchase of the defense articles) to the purchasing allied country on aircraft operated by or for the military forces of the United States except at a rate of reimbursement that is equal to the full cost of transportation of the defense articles, as required by section 21(a)(3) of the Arms Export Control Act (22 U.S.C. 2761(a)(3)).

(b) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into nonreciprocal military airlift agreements with North Atlantic Treaty Organization subsidiary bodies for the transportation of the personnel and cargo of such subsidiary bodies on aircraft operated by or for the military forces of the United States. Any such agreement shall be subject to such terms as the Secretary of Defense considers appropriate.

(c) Any amount received by the United States as a result of an agreement entered into under this section shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

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[22] Sec. 2213 was enacted by sec. 1125(a) of the DOD Authorization Act, 1983 (Public Law 97-252, 96 Stat. 757).

(d) Notwithstanding chapter 138 of this title, the Secretary of Defense may enter into military airlift agreements with allied countries only under the authority of this section.

(e) In this section:

(1) The term "allied country" means any of the following:

(A) A country that is a member of the North Atlantic Treaty Organization.

(B) Australia or New Zealand.

(C) Any other country designated as an allied country for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term "North Atlantic Treaty Organization subsidiary bodies" has the meaning given to it by section 2331 of this title.

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§ 2327.[23] Contracts: consideration of national security objectives

(a) Disclosure of Ownership or Control by a Foreign Government.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

(b) Prohibition of Entering Into Contracts Against the Interests of the United States.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in case of a subsidiary, in the firm that owns the subsidiary); and

(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1797 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

(c) Waiver.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract.

(B) A report under subparagraph (A) shall include the following:

(i) The identify of the foreign government concerned.

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[23] Sec. 2327 was added by sec. 951 of Public Law 99-661 (100 Stat. 3816).

(ii) The nature of the contract.

(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

(iv) The reasons for entering into the contract.

(C) After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.

(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

(A) The relationship of the United States with the foreign government concerned.

(B) The obligations of the United States under international agreements.

(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

(d) APPLICABILITY.—(1) This section does not apply to a contract for an amount less than $100,000.

(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term "significant interest."

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§ 2401a.[24] Procurement of communications support and related supplies and services

(a) As an alternative means of obtaining communications support and related supplies and services, the Secretary of Defense, subject to the approval of the Secretary of State, may enter into an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO), under which, in return for being provided communications support and related supplies and services, the United

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[24] Sec. 2401a was enacted by sec. 1005 of the Department of Defense Authorization Act, 1985 (Public Law 98-525, 98 Stat. 2492 at 2578).

States would agree to provide to such country or NATO an equivalent value of communications support and related supplies and services.

(b) Any arrangement entered into under this section shall require that any accrued credits and liabilities resulting from an unequal exchange of communications support and related supplies and services during the term of such arrangement would be liquidated by direct payment to the party having provided the greater amount of communications support and related supplies and services. Payments received by the United States shall be credited to the appropriation from which such communications support and related supplies and services have been provided.

(c) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives copies of all documents evidencing an arrangement entered into under subsection (a) not later than 45 days after entering into such an arrangement.

(d) In this section, the term "allied country" means—

(1) a country that is a member of the North Atlantic Treaty Organization, or

(2) Australia, New Zealand, Japan, or the Republic of Korea.

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§ 2407.[25] Acquisition of defense equipment under cooperative projects

(a)(1) If the President delegates to the Secretary of Defense the authority to carry out section 27(d) of the Arms Export Control Act (22 U.S.C. 2767(d)), relating to cooperative projects (as defined in such section), the Secretary may utilize his authority under this title in carrying out contracts or obligations incurred under such section.

(2) Except as provided in subsection (c), chapter 137 of this title shall apply to such contracts (referred to in paragraph (1)) entered into by the Secretary of Defense. Except to the extent waived under subsection (c) or some other provision of law, all other provisions of law relating to procurement, if otherwise applicable, shall apply to such contracts entered into by the Secretary of Defense.

(b) When contracting or incurring obligations under section 27(d) of the Arms Export Control Act for cooperative projects, the Secretary of Defense may require subcontracts to be awarded to particular subcontractors in furtherance of the cooperative project.

(c)(1) Subject to paragraph (2), when entering into contracts or incurring obligations under section 27(d) of the Arms Export Control Act outside the United States, the Secretary of Defense may waive with respect to any such contract or subcontract the application of any provision of law, other than a provision of the Arms Export Control Act or section 2304 of this title, that specifically—

(A) prescribe procedures to be followed in the formation of contracts;

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[25] Sec. 2407 was added by sec. 1102(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 710). References to "NATO" cooperative projects were removed by sec. 1103 of Public Law 99-661 (100 Stat. 3816).

(B) prescribe terms and conditions to be included in contracts;

(C) prescribe requirements for or preferences to be given to goods grown, produced, or manufactured in the United States or in United States Government- owned facilities or for services to be performed in the United States; or

(D) prescribe requirements regulating the performance of contracts.

(2) A waiver may not be made under paragraph (1) unless the Secretary determines that the waiver is necessary to ensure that the cooperative project will significantly further standardization, rationalization, and interoperability.

(3) The authority of the Secretary to make waivers under this subsection may be delegated only to the Deputy Secretary of Defense or the Acquisition Executive designated for the Office of the Secretary of Defense.

(d)(1) The Secretary of Defense shall notify the Congress each time he requires that a prime contract be awarded to a particular prime contractor or that a subcontract to be awarded to a particular subcontractor to comply with a cooperative agreement. The Secretary shall include in each such notice the reason for exercising his authority to designate a particular contractor or subcontractor, as the case may be.

(2) The Secretary shall also notify the Congress each time he exercises a waiver under subsection (c) and shall include in such notice the particular provision or provisions of law that were waived.

(3) A report under this subsection shall be required only to the extent that the information required by this subsection has not been provided in a report made by the President under section 27(e) of the Arms Export Control Act (22 U.S.C. 2767(e)).

(e)(1) In carrying out a cooperative project under section 27 of the Arms Export Control Act, the Secretary of Defense may agree that a participant (other than the United States) may make a contract for requirements of the United States under the project if the Secretary determines that such a contract will significantly further standardization, rationalization, and interoperability. Except to the extent waived under this section or under any other provision of law, the Secretary shall ensure that such contract will be made on a competitive basis and that United States sources will not be precluded from competing under the contract.

(2) If a participant (other than the United States) in a cooperative project makes a contract on behalf of such project to meet the requirements of the United States, the contract may permit the contracting party to follow its own procedures relating to contracting.

(f) In carrying out a cooperative project, the Secretary of Defense may also agree to the disposal of property that is jointly acquired by the members of the project without regard to any laws of the United States applicable to the disposal of property owned by the United States. Disposal of such property may include a transfer of the interest of the United States in such property to one of the other governments participating in the cooperative agreement or the sale of such property. Payment for the transfer or sale of any interest of the United States in any such property shall be made in accordance with the terms of the cooperative agreement.

(g) Nothing in this section shall be construed as authorizing—

(1) the Secretary of Defense to waive any of the financial management responsibilities administered by the Secretary of the Treasury; or

(2) to waive the cargo preference laws of the United States, including the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)).

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§ 2457.[26] Standardization of equipment with North Atlantic Treaty Organization members

(a) It is the policy of the United States to standardize equipment, including weapons systems, ammunition, and fuel, procured for the use of the armed forces of the United States stationed in Europe under the North Atlantic Treaty or at least to make that equipment interoperable with equipment of other members of the North Atlantic Treaty Organization. To carry out this policy, the Secretary of Defense shall—

(1) assess the costs and possible loss of nonnuclear combat effectiveness of the military forces of the members of the Organization caused by the failure of the member to standardize equipment;

(2) maintain a list of actions to be taken, including an evaluation of the priority and effect of the action, to standardize equipment that may improve the overall nonnuclear defense capability of the Organization or save resources for the Organization; and

(3) initiate and carry out, to the maximum extent feasible, procurement procedures to acquire standardized or interoperable equipment, considering the cost, function, quality, and availability of the equipment.

(b) Progress in realizing the objectives of standardization and interoperability would be enhanced by expanded inter-Allied procurement of arms and equipment within the North Atlantic Treaty Organization. Expanded inter-Allied procurement would be made easier by greater reliance on licensing and coproduction cooperative agreements among the signatories of the North Atlantic Treaty. If constructed to preserve the efficiencies associated with economies of scale, the agreements could minimize potential economic hardship to parties to the agreements and increase the survivability, in time of war, of the North Atlantic Alliance's armaments production base by dispersing manufacturing facilities. In conjunction with other members of the Organization and to the maximum extent feasible, the Secretary shall—

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[26] Public Law 97-295 consolidated a number of provisions enacted in previous years concerning NATO standardization issues, made technical and conforming amendments, and codified the new language at 10 U.S.C. 2457. Portions of this text originated in the following acts: sec. 302(c) of the DOD Authorization Act, 1975 (Public Law 93-365, 88 Stat. 399); sec. 814 of the DOD Authorization Act, 1976 (Public Law 94-106, 89 Stat. 531); sec. 803 of the DOD Authorization Act, 1977 (Public Law 94-361, 90 Stat. 923); and sec. 1121 of the DOD Authorization Act, 1983 (Public Law 97-252, 96 Stat. 754). Public Law 97-295 further repealed the above mentioned provisions relating to NATO standardization.

(1) identify areas in which those cooperative agreements may be made with members of the Alliance; and

(2) negotiate those agreements.

(c)(1) It is the sense of Congress that weapons systems being developed wholly or primarily for employment in the North Atlantic Treaty Organization theater should conform to a common Organization requirement in order to proceed toward joint doctrine and planning and to facilitate maximum feasible standardization and interoperability of equipment, and that a common Organization requirement should be understood to include a common definition of the military threat to the members of the Organization.

(2) It is further the sense of Congress that standardization of weapons and equipment within the Organization on the basis of a "two-way street" concept of cooperation in defense procurement between Europe and North America can only work in a realistic sense if the European nations operate on a united and collective basis. Therefore, the governments of Europe are encouraged to accelerate their present efforts to achieve European armaments collaboration among all European members of the Organization.

(d) Before February 1 of each year, the Secretary shall submit a report to Congress that includes—

(1) Each specific assessment and evaluation made and the results of each assessment and evaluation, and the results achieved with the members of the North Atlantic Treaty Organization, under subsections (a)(1) and (2) and (b);

(2) procurement action initiated on each new major system not complying with the policy of subsection (a);

(3) procurement action initiated on each new major system that is not standardized or interoperable with equipment of other members of the Organization, including a description of the system chosen and the reason for choosing that system;

(4) the identity of—

(A) each program of research and development for the armed forces of the United States stationed in Europe that supports, conforms, or both, to common Organization requirements of developing weapon systems for use by the Organization, including a common definition of the military threat to the Organization; and

(B) the common requirements of the Organization to which those programs conform or which they support;

(5) action of the Alliance toward common Organization requirements if none exist;

(6) efforts to establish a regular procedure and mechanism in the Organization to determine common military requirements;

(7) a description of each existing and planned program of the Department of Defense that supports the development or procurement of a weapon system or other military equipment originally developed or procured by members of the Organization other than the United States and for which funds have been authorized to be appropriated for the fiscal year in which the report is submitted, including a summary listing of the amount of funds—

(A) appropriated for those programs for the fiscal year in which the report is submitted; and

(B) requested, or proposed to be requested, for those programs for each of the 2 fiscal years following the fiscal year for which the report is submitted; and

(8) a description of each weapon system or other military equipment originally developed or procured in the United States and that is being developed or procured by members of the Organization other than the United States during the fiscal year for which the report is submitted.

(e) If the Secretary decides that procurement of equipment manufactured outside the United States is necessary to carry out the policy of subsection (a), the Secretary may determine under section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a), that acquiring that equipment manufactured in the United States is inconsistent with the public interest.

(f) The Secretary shall submit the results of each assessment and evaluation made under subsection (a)(1) and (2) to the appropriate North Atlantic Treaty Organization Body to become an integral part of the overall Organization review of force goals and development of force plans.

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§ 2505.[27] Offset policy; notification

(a) Establishment of Offset Policy.—The President shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements in connection with the purchase of defense equipment or supplies which addresses the following:

(1) Transfer of technology in connection with offset arrangements.

(2) Application of offset arrangements, including cases in which United States funds are used to finance the purchase by a foreign government.

(3) Effects of offset arrangements on specific subsectors of the industrial base of the United States and for preventing or ameliorating any serious adverse effects on such subsectors.

(b) Technology Transfer.—(1) No official of the United States may enter into a memorandum of understanding or other agreement with a foreign government that would require the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement if the implementation of such memorandum or agreement would significantly and adversely affect the defense industrial base of the United States and would result in a substantial financial loss to a United States firm.

(2) Paragraph (1) shall not apply in the case of a memorandum of understanding or agreement described in paragraph (1) if the Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, determines that a transfer of United States defense technology pursuant to such understanding or agree-

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[27] Sec. 825(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456, 102 Stat. 2020), added sec. 2505.

ment will result in strengthening the national security of the United States and so certifies to Congress.

(3) If a United States firm is required under the terms of a memorandum of understanding, or other agreement entered into by the United States with a foreign country, to transfer defense technology to a foreign country, the United States firm may protest the determination to the Secretary of Defense on the grounds that the transfer of such technology would adversely affect the defense industrial base of the United States and would result in substantial financial loss to the protesting firm. The Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, shall make the final determination of the validity of the protesting firm's claim.

(c) NOTIFICATION REGARDING OFFSETS.—If at any time a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding $50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in accordance with regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce.

(d) DEFINITIONS.—In this section:

(1) The term "United States firm" means a business entity that performs substantially all of its manufacturing, production, and research and development activities in the United States.

(2) The term "foreign firm" means a business entity other than a United States firm.

§ 2547.[28] Excess nonlethal supplies: humanitarian relief

(a) The Secretary of Defense may make available for humanitarian relief purposes any nonlethal excess supplies of the Department of Defense.

(b) Excess supplies made available for humanitarian relief purposes under this section shall be transferred to the Secretary of State, who shall be responsible for the distribution of such supplies.

(c) This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require—

(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

(2) a notice to the intelligence committees under section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413).

(d)(1) The Secretary of State shall submit an annual report on the disposition of all excess supplies transferred by the Secretary of Defense to the Secretary of State under this section during the preceding year.

(2) Such reports shall be submitted to the Committees on Armed Services and on Foreign Relations of the Senate and the Committees on Armed Services and on Foreign Affairs of the House of Representatives.

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[28] This section was added by sec. 1454 of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 761).

(3) Such reports shall be submitted not later than June 1 of each year.

(e) In this section:

(1) "Nonlethal excess supplies" means property, other than real property of the Department of Defense—

(A) that is excess property, as defined in regulations of the Department of Defense; and

(B) that is not a weapon, ammunition, or other equipment or material that is designed to inflict serious bodily harm or death.

(2) "Intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

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b. National Defense Authorization Act, Fiscal Year 1989

Partial text of Public Law 100-456 [H.R. 4481], 102 Stat. 1918, approved September 29, 1988; as amended by Public Law 100-463 [Department of Defense Appropriations Act, Fiscal Year 1989, H.R. 4781], 102 Stat. 2270, approved October 1, 1988; and by Public Law 100-526 [Defense Authorization Amendments and Base Closure and Realignment Act, S. 2749], 102 Stat. 2623, approved October 24, 1988

AN ACT To authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act, Fiscal Year 1989".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is organized into two divisions as follows:

(1) Division A—Department of Defense and other National Defense Authorizations.

(2) Division B—Military Construction Authorizations.

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SEC. 4. STATUTORY CONSTRUCTION

(a) Order of Enactment With Appropriations Act.—In applying any rule of statutory construction, the provisions of this Act shall be deemed to have been enacted before the provisions of the Department of Defense Appropriations Act, 1989, (regardless of the actual dates of enactment concerned).[1]

(b) Termination of Referenced Authorization Provision.—If this Act is enacted after the Department of Defense Appropriations Act, 1989—

(1) section 10001 of that Act shall cease to be effective upon the enactment of this Act; and

(2) subject to subsection (a), this Act shall be deemed for all purposes to have been enacted on the date of the enactment of such Act.

DIVISION A—DEPARTMENT OF DEFENSE AND OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Part A—Funding Authorizations

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[1] The Department of Defense Appropriations Act, 1989, was enacted October 1, 1989.

SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1989 for the chemical demilitarization program under section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521)[2] in the amount of $179,500,000, of which—

(1) $44,300,000 is for procurement;

(2) $17,900,000 is for research, development, test, and evaluation; and

(3) $117,300,000 is for operation and maintenance.

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PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

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SEC. 116. BIGEYE BINARY CHEMICAL BOMB

(a) AUTHORIZED PROCUREMENT FOR TESTING.—(1) Except as provided in paragraph (2), funds appropriated or otherwise made available to the Department of Defense for fiscal years before fiscal year 1989 for procurement under the BIGEYE binary chemical bomb program may be obligated or expended in connection with such program only for procurement of production-configured bombs. Any bombs procured under the preceding sentence may be used only in conducting required follow-on operational testing scheduled to be performed during fiscal years 1989 and 1990.

(2) Any such funds not obligated for the purpose described in paragraph (1) may be used for the purpose of maintaining program continuity for the BIGEYE bomb program.

(3) None of the funds referred to in paragraphs (1) and (2) may be used for low-rate initial production.

(b) CONDITIONS FOR OBLIGATION OF FUNDS FOR PROCUREMENT.—Except as provided in subsection (f), funds appropriated or otherwise made available to the Department of Defense after the date of the enactment of this Act may not be obligated or expended for procurement of the BIGEYE binary chemical bomb, or for any component of such bomb or the assembly of such bomb, until the reports required by subsections (c) and (d) have been submitted in accordance with those subsections and only then if neither of those reports includes a certification that one or more of the production certification conditions has not been met.

(c) CERTIFICATION BY DIRECTOR, OT&E.—Upon the completion of operational and developmental tests conducted in connection with the BIGEYE binary chemical bomb program, the Director of Operational Test and Evaluation of the Department of Defense shall submit to Congress a report certifying, with respect to each of the production certification conditions, whether or not, in the judgment of the Director, such condition has been met.

(d) CERTIFICATION BY COMPTROLLER GENERAL.—Upon the submission of the report under subsection (c), the Comptroller General of the United States shall submit to Congress a report certifying, with respect to each of the production certification conditions, whether or not, in the judgment of the Comptroller General, such condition has been met.

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[2] For text, see page 879.

(e) PRODUCTION CERTIFICATION CONDITIONS.—For purposes of this section, the term "production certification conditions" means, with respect to the operational and developmental tests of the BIGEYE bomb, each of the following:

(1) That the operational and developmental tests conducted in connection with such program after the date of the enactment of this Act were realistic and adequate.

(2) That the plan and objectives for those tests were clear, well defined, and properly quantifiable.

(3) That the design of those tests supports a valid statistical analysis of data.

(4) That the criteria for a no-test were adequately defined in the plan for those tests.

(5) That the performance of such bomb in those tests met or exceeded the standards established for the tests.

(6) That the BIGEYE bomb program is otherwise ready to proceed into full-scale production.

(f) FISCAL YEAR 1989 AUTHORIZED ACTIVITIES.—Of amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1989, $15,000,000 may be obligated or expended for procurement for the BIGEYE program without regard to the limitations contained elsewhere in this section, but only for the purposes of maintaining program continuity, maintaining the subcontractor base, and procuring piece parts and components. Such funds may not be obligated or expended for low-rate initial production or for final assembly.

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SEC. 118.[3] MODIFICATIONS IN CHEMICAL DEMILITARIZATION PROGRAM

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND FUNDING FOR SPECIFIC PROGRAMS

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SEC. 208. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the amounts appropriated pursuant to section 201, $6,800,000 shall be available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

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PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

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[3] Sec. 118 amended sec. 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 583). For text, see page 879.

SEC. 216. PROHIBITION ON OBLIGATION OF FUNDS FOR CANCELLED ANTISATELLITE WEAPON PROGRAM

(a) PROHIBITION.—Residual fiscal year 1988 ASAT funds may not be obligated for the ASAT program.

(b) RESIDUAL FISCAL YEAR 1988 ASAT FUNDS DEFINED.—For purposes of this section, the term "residual fiscal year 1988 ASAT funds" means funds in the amount of $16,000,000 which were appropriated to the Department of Defense for fiscal year 1988 for research, development, test, and evaluation for the Air Force which—

(1) were originally made available for the ASAT program; and

(2) which remain available for obligation following cancellation of that program by the Secretary of Defense.

(c) ASAT PROGRAM DEFINED.—For purposes of subsections (a) and (b), the term "ASAT program" means the program of the Air Force to develop an F-15 launched miniature homing vehicle antisatellite weapon.

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PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1989

(a) AMOUNTS AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test and evaluation for fiscal year 1989, not more than $3,738,000,000 may be obligated for the Strategic Defense Initiative.

(b) RESTRICTION ON USE OF FUNDS.—Amounts appropriated to or for the use of the Department of Defense for fiscal year 1989 may not be used to establish a Strategic Defense System Operational Test and Evaluation activity.

(c) REPORT BY SECRETARY OF DEFENSE.—Before the adjournment sine die of the second session of the One-Hundredth Congress, the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on the Space-Based Interceptor (SBI) program of the Strategic Defense Initiative. The report shall include a discussion of the following matters with respect to the SBI program:

(1) Role of SBI in the Phase One architecture.
(2) SBI performance in the current system concept.
(3) SBI cost projections.
(4) Technology progress and plans.
(5) Launch requirements.
(6) Other programmatic details.

SEC. 222. REPORT ON ALLOCATION OF SDI FUNDING FOR FISCAL YEAR 1989

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the allocation of funds appropriated or otherwise made available for the Strategic Defense Initiative for fiscal year 1989. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) Deadline for Report.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 223. DEVELOPMENT AND TESTING OF ANTIBALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) Use of Funds.—(1) Funds appropriated to the Department of Defense for fiscal year 1989, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1989 or for any fiscal year before 1989, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of antiballistic missile systems or components except for development and testing consistent with the development and testing described in the March 1988 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the March 1988 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1989 if the transfer is made in accordance with section 1201 of this Act.

(b) Definition.—As used in this section, the term "March 1988 SDIO Report" means the report entitled, "Report to Congress on the Strategic Defense Initiative", dated March 23, 1988, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 10 U.S.C. 2431 note).

SEC. 224. ACCIDENTAL LAUNCH PROTECTION

(a) Findings.—Congress makes the following findings:

(1) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(2) The Soviet Union has deployed approximately 1,400 land-based intercontinental ballistic missiles and approximately 900 sea-based ballistic missiles.

(3) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(4) Proliferation of ballistic missile technology, such as the action of the People's Republic of China in providing ballistic missiles to Saudi Arabia, raises the possibility of future nuclear threats.

(b) Sense of Congress.—It is the sense of Congress—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States; and

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty.

(c) REPORT.—Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the status of planning for development of a deployment option for such an accidental launch protection system.

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PART E—OTHER PROGRAMS

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SEC. 243. REPORT ON SPACE CONTROL CAPABILITIES

(a) REPORT.—Not later than the date on which the President submits the budget for fiscal year 1990 to Congress under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report on space control capabilities of the Armed Forces.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A description of requirements for space control capabilities related to deterrence and warfighting objectives, including space surveillance and anti-satellite capabilities, that have been validated by the Chairman of the Joint Chiefs of Staff and transmitted to the commander of the United States Space Command.

(2) A net assessment of the space control capabilities of the United States and the Soviet Union.

(3) An assessment of current deficiencies in United States space control capabilities and recommendations for overcoming those deficiencies.

(4) A 5-year plan for improving ground- and space-based surveillance systems and their associated command, control, and communications systems and the cost and schedule for implementing the plan.

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TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

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SEC. 303. HUMANITARIAN ASSISTANCE

(a) Purpose.—The amount authorized in section 301 [4] for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the amount authorized in such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) Authority To Transfer Funds.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in section 301 for humanitarian assistance to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) Transportation Under Direction of the Secretary of State.—Transportation provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be under the direction of the Secretary of State.

(d) Means of Transportation To Be Used.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical means available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) Availability of Funds.—Amounts appropriated pursuant to the authorization in section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) Reports.—The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report not later than 60 days after the date of the enactment of this Act. The Secretary shall also submit a report to those committees not later than June 1, 1989, and not later than June 1 of each year thereafter, until all funds available under this section have been obligated. Each such report shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (2).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (2).

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[4] Sec. 301 authorized $13,000,000 for humanitarian assistance.

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.[5]

(2) The humanitarian relief laws referred to in paragraph (1) are the following:

(A) This section.

(B) Section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3856).[6]

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).[7]

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PART B—LIMITATIONS

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SEC. 313.[8] PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

(a) PROHIBITION.—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States.

SEC. 314. LIMITATION ON FUNDING FOR UNITED STATES SOUTHERN COMMAND AIRLIFT

Funds appropriated for operation and maintenance for the Air Force for fiscal year 1989 may not be obligated or expended in connection with any contract for aircraft with short takeoff and landing capability until—

(1) the Secretary of Defense approves a requirements document and an acquisition plan, including costs and schedule information, for an aircraft with short takeoff and landing capability for the United States Southern Command; and

(2) the Secretary of Defense submits both the document and the plan to the Committees on Armed Services of the Senate and the House of Representatives.

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TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

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[5] For text, see page 794.

[6] For text, see page 859.

[7] For text, see page 840.

[8] 50 U.S.C. app. 2410a note.

Part B—Defense Industrial Base

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SEC. 825. DEPARTMENT OF DEFENSE OFFSET POLICY

(a) [9] Findings.—Congress makes the following findings:

(1) Many contracts entered into by United States firms for the supply of weapon systems or defense-related items to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as "offsets", are a component of international trade and could have an impact on United States defense industry opportunities in domestic and foreign markets.

(2) Some United States contractors and subcontractors may be adversely affected by such contractual arrangements.

(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms.

(4) The use of such transferred technology by foreign firms in conjunction with foreign trade practices permitted under the trade policies of the countries of such firms can give foreign firms a competitive advantage against United States firms in world markets for products using such technology.

(5) A purchase of defense equipment pursuant to an offset arrangement may increase the cost of the defense equipment to the purchasing country and may reduce the amount of defense equipment that a country may purchase.

(6) The exporting of defense equipment produced in the United States is important to maintain the defense industrial base of the United States, lower the unit cost of such equipment to the Department of Defense, and encourage the standardized utilization of United States equipment by the allies of the United States.

(b) Amendment to Title 10.[10] * * *

(c) [11] Negotiations.—(1) The President shall enter into negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of defense equipment or supplies from the United States. The negotiations should be conducted with a view to achieving an agreement with the countries concerned that would limit the adverse effects that such arrangements have on the defense industrial base of each such country.

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[9] 10 U.S.C. 2505 note.

[10] Sec. 825(b) added a new sec. 2505 to title 10 U.S.C. concerning U.S. defense technology transfer and notifications. For text, see page 793.

[11] 10 U.S.C. 2505 note.

(2) Every effort shall be made to achieve such agreements within two years after the date of the enactment of this Act.

(d) REPORTS.—(1) Not later than November 15, 1988, the President shall submit to Congress a comprehensive report on contractual offset arrangements required of United States firms for the supply of weapon systems or defense-related items to foreign countries or foreign firms. Such report shall include, at a minimum, the following:

(A) An analysis of the amount and type of contractual offsets required of United States firms by the governments of foreign countries or by foreign firms.

(B) An assessment of the benefits for and costs to United States manufacturers of defense products at all tiers that result from requirements of foreign governments for contractual offset arrangements in the case of products procured from United States firms.

(C) An assessment of the benefits for and the costs to United States manufacturers of defense products at all tiers that would result from restriction of the ability of foreign governments or foreign firms to require contractual offsets in the case of defense products procured from United States firms.

(D) An assessment of the benefits and costs of a United States policy that requires reciprocal offsets in the procurement of defense products from those countries whose governments have a policy of requiring contractual offsets in the case of defense products procured from United States firms.

(E) An assessment of the impact that elimination of contractual offset requirements in international sales of defense products would have on the national security of the United States.

(F) Recommendations for a national policy with respect to contractual offset arrangements.

(G) A preliminary discussion of the actions referred to in paragraph (2).

(2) Not later than March 15, 1990, the President shall transmit to Congress a report containing a discussion of appropriate actions to be taken by the United States with respect to purchases from United States firms by a foreign country (or a firm of that country) when that country or firm requires an offset arrangement in connection with the purchase of defense equipment or supplies in favor of such country. The report shall include a discussion of the following possible actions:

(A) A requirement for an offset in favor of the United States or United States firms in any case in which the Department of Defense or any other department or agency of the United States purchases goods from such foreign country or a firm of such country.

(B) A demand for offset credits from such foreign country to be used, to the extent practicable, to meet offset obligations of United States firms to such foreign country or to a firm of such country.

(C) A reduction in assistance furnished such foreign country by the United States.

(D) A requirement for alternative equivalent advantages in the case of any such foreign country or a firm of such country if the United States does not purchase a sufficient volume of goods from such country or firm for a requirement described in subparagraph (A) to be effective.

(3) The President shall report to Congress at least once each year, for a period of 4 years, on the progress of the negotiations referred to in subsection (c). The first such report shall be submitted not later than one year after the date of the enactment of this Act.

(4) In this subsection, the terms "United States firm" and "foreign firm" have the same meanings as are provided in section 2505(d) of title 10, United States Code, as added by subsection (b).

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TITLE IX—MATTERS RELATING TO ARMS CONTROL [12]

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TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

SEC. 1001. INCREASE IN ANNUAL DOLLAR LIMITATION ON ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH ALLIED COUNTRIES

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SEC. 1002.[13] AUTHORITY TO WAIVE SURCHARGES ON CERTAIN SALES TO NORTH ATLANTIC TREATY ORGANIZATION * * *

SEC. 1003.[14] AUTHORITY OF MILITARY DEPARTMENTS TO LOAN AND BORROW FROM CERTAIN ALLIES MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES * * *

SEC. 1004.[15] SENSE OF CONGRESS ON NEED FOR MODERNIZATION OF THEATER NUCLEAR CAPABILITIES OF NATO

(a) FINDINGS.—Congress makes the following findings:

(1) The security of the North Atlantic Treaty Organization (NATO) alliance will continue for the foreseeable future to rely on a modern and credible nuclear deterrent.

(2) NATO should make every effort to achieve the goal of raising the threshold for the use of nuclear weapons in the event of a conflict in Europe.

(3) While recognizing that there is a critical need for improvements in conventional forces, Congress also recognizes that the United States will have to devote defense resources in the future to the continuing modernization of the theater nuclear capabilities of NATO.

(4) The modernization of the theater nuclear capabilities of NATO is a continuing process and stems from the 1983 Montebello decision by NATO to reduce the stockpile of nuclear

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[12] For text, see vol. II, sec F.

[13] Sec. 1002 amended sec. 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e)). For text, see page 268.

[14] Sec. 1003 amended chapter 6 of the Arms Export Control Act (22 U.S.C. 2796c). For text, see page 311.

[15] 22 U.S.C. 1928 note.

weapons in Europe while taking steps to ensure that the remaining nuclear weapons of the alliance are responsive, survivable, and effective.

(5) Programs to modernize theater nuclear forces, which had a high priority for NATO before the ratification of the Intermediate-range Nuclear Forces (INF) Treaty, are at least as important following the ratification of that treaty in May 1988.

(6) The NATO Nuclear Planning Group recently reaffirmed its endorsement of development by the United States of a new missile for delivery of theater nuclear weapons as a follow-on to the current Lance missile, with a view toward an eventual decision on deployment of such a follow-on missile.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) modernization of the theater nuclear capabilities of the North Atlantic Treaty Organization is essential to the deterrence strategy of the NATO alliance, particularly in light of the requirements of the Intermediate-range Nuclear Forces (INF) Treaty for the destruction of intermediate-range nuclear weapons;

(2) continued modernization by the United States of theater nuclear capabilities should be undertaken in close consultation with other NATO member nations; and

(3) the United States should proceed with ongoing activities to meet the identified requirement of the NATO alliance for development of a new missile for delivery of theater nuclear weapons as a follow-on to the Lance missile.

SEC. 1005. REPORT ON NATO DEFENSE PROGRAM FOR FISCAL YEAR 1990

(a) REPORT.—The Secretary of Defense shall submit to Congress a report setting forth in detail the programs of the Department of Defense in support of the North Atlantic Treaty Organization (referred to as the "NATO Defense Program") for fiscal year 1990. The report shall include—

(1) an identification of each such program by program element; and

(2) a description of each such program and the level of funding requested by the President for each such program in the budget for fiscal year 1990.

(b) SUBMISSION OF REPORT.—The report under subsection (a) shall be submitted in conjunction with the submission to Congress of the President's budget for fiscal year 1990 pursuant to section 1105 of title 31, United States Code.

SEC. 1006.[16] IMPROVEMENT IN DEFENSE RESEARCH AND PROCUREMENT LIAISON WITH ISRAEL

The Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition, shall designate for duty in Israel an individual or individuals to serve as the primary liaison between the procurement and research and development activities of the United States Armed Forces and those of the State of Israel.

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[16] 10 U.S.C. 133 note.

SEC. 1007.[17] MODIFICATION OF REQUIREMENT CONCERNING DESIGNATION OF MAJOR NON-NATO ALLIES * * *

SEC. 1008. CALL FOR CONTINUED DEFENSE BURDENSHARING DISCUSSIONS WITH ALLIES

It is the sense of Congress that the President should continue the discussions (called for by Congress in section 1254(b)(1) of Public Law 100-204) with countries which participate in mutual defense alliances with the United States, especially the member nations of the North Atlantic Treaty Organization and Japan, for the purpose of reaching an agreement for a more equitable distribution of the burden of financial support for the alliances.

SEC. 1009. CONTRIBUTIONS BY JAPAN TO GLOBAL STABILITY

(a) FINDINGS.—The Congress makes the following findings:

(1) As noted by Congress in section 1012(a)(1) of Public Law 100-180 [18] and in section 812(a)(1) of Public Law 99-93,[19] the alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and the economic prosperity enjoyed by both the United States and Japan.

(2) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of our countries is indivisible and must be approached on a global basis", the Government of Japan, in actions welcomed by the United States—

(A) continues to fulfill the pledge made by the Prime Minister of Japan in May 1981 to develop the capabilities to defend the territory of Japan and the airspace and sealanes around Japan to a distance of 1,000 nautical miles by 1990,

(B) has increased the amount of assistance provided to other countries during fiscal year 1988 by 6.5 percent over the amount of such assistance provided during fiscal year 1987, and

(C) is, according to recent reports, actively involved in increasing its contributions to the stability of the Republic of the Philippines.

(3) Japan could, because of its recent history and economic status, best fulfill a politically acceptable and significant role in maintaining the security of the leading industrialized democracies by increasing spending for its Official Development Assistance program in the manner described by Congress in section 1012(b) of Public Law 100-180.[18]

(4) The failure of the United States and Japan to agree on the appropriate level of the contribution by Japan to maintaining the security of the leading industrialized democracies could weaken the long-term vitality, effectiveness, and cohesion of the alliance between the United States and Japan.

(b) [20] ANNUAL REPORT.—The Secretary of Defense shall include with the annual report submitted pursuant to section 1003 of

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[17] Sec. 1007 amended sec. 1105(f) of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a). For text, see page 861.

[18] For text, see page 844.

[19] For text, see vol. II, sec. D.

[20] 22 U.S.C. 1928 note.

Public Law 98-525 [21] (22 U.S.C. 1928 note) a report on the Official Development Assistance program of the Government of Japan. Such report shall be prepared each year in coordination with the Secretary of State and the Administrator of the Agency for International Development and shall include a description of the amount and nature of spending under such program by recipient, including distinguishing between grant aid, loans, and credits.

(c) POLICY ON DISCUSSIONS WITH JAPAN.—It is the sense of Congress that in the discussions with Japan referred to in section 1008 for the purpose of reaching a more equitable distribution of the burden of financial support for the security of the leading industrialized democracies, the objective of such discussions should include the establishment of a schedule for increases in spending under Japan's Official Development Assistance program and its defense programs so that, by 1992, the level of spending on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the progress of the discussions described in subsection (c) with respect to Japan.

(e) FURTHER CONGRESSIONAL ACTION.—It is the sense of Congress that if, in the judgment of Congress, the report of the President under subsection (d) does not reflect substantial progress toward a more equitable distribution of the burden of maintaining the security of the leading industrialized democracies, Congress should review the extent of the distribution of the mutual security burden between the United States and Japan and should consider whether additional legislation is appropriate.

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101.[22] ANNUAL GUIDELINES TO THE MILITARY DEPARTMENTS * * *

SEC. 1102.[23] LEAD AGENCY FOR DETECTION

(a) DEPARTMENT OF DEFENSE TO SERVE AS LEAD AGENCY.—The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) PRESIDENTIAL DETERMINATION.—Not later than 15 days after the date of the enactment of this Act, the President may designate an agency other than the Department of Defense as the single lead agency for the purpose stated in subsection (a). Before making such a designation, the President shall notify the Committees on Armed Services of the Senate and House of Representatives of the proposed designation and shall submit to those committees a detailed report setting forth the reasons for such designation.

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[21] For text, see page 874.

[22] Sec. 1101 amended sec. 113 of title 10, United States Code, by adding to the end a new subsec. (l). For text, see page 774.

[23] 10 U.S.C. 113 note.

SEC. 1103.[24] COMMUNICATIONS NETWORK

(a) INTEGRATION OF C3I ASSETS.—(1) The President shall direct that command, control, communications, and technical intelligence assets of the United States that are dedicated to the interdiction of illegal drugs be integrated by the Secretary of Defense into an effective communications network.

(2) Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report setting forth the plan of the President for the integration of assets by the Secretary of Defense under paragraph (1).

(b) PLAN FOR RESPONSIBILITY FOR OPERATING C3I NETWORK.—Not later than 120 days after submission of the report required by subsection (a)(2), the President shall develop a plan for the assignment of responsibility for operating the communications network described in subsection (a)(1) and shall submit to Congress a report on such plan. The plan shall ensure that assignment of the responsibility for operating the communications network referred to in subsection (a)(1) is made not later than 60 days after the date on which the report required by this subsection is submitted to Congress.

SEC. 1104.[25] ENHANCED DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT BY THE DEPARTMENT OF DEFENSE * * *

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SEC. 1107. REPORTS

(a) PROPOSALS.—Not later than December 1, 1988, the President shall submit to Congress a report containing—

(1) legislative proposals to enhance the capability of the Department of Defense to perform the functions provided for in this title and in the amendments made by this title; and

(2) estimates of the amounts necessary to carry out such proposals.

(b) RADAR COVERAGE AND SOUTHERN BORDER.—(1) The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report assessing the potential effect on drug interdiction and on the drug abuse problem in the United States of—

(A) carrying out radar coverage along the southern border of the United States; and

(B) pursuing drug smugglers detected by such radar coverage with rotor-wing and fixed-wing aircraft of the Department of Defense and of civilian law enforcement agencies.

(2) The President shall include in such report an assessment of the relative effectiveness—

(A) of carrying out the operations described in clauses (A) and (B) of paragraph (1) on a full-time basis;

(B) of carrying out such operations only during the hours of darkness; and

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[24] 10 U.S.C. 374 note.

[25] Sec. 1104 amended chapter 18 of title 10, United States Code, secs. 371-380. For text, see page 778.

(C) the feasibility and cost of carrying out such operations under each of the conditions specified in clauses (A) and (B).

(3) The report under paragraph (1) shall be submitted not later than 30 days after the date of the enactment of this Act.

(c) PURSUIT BY AIRCRAFT.—(1) Not later than 15 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the following information:

(A) The total number of times suspected drug smugglers flying aircraft into the United States have been pursued by aircraft operated by or with the support of personnel of the Department of Defense under the authority of section 374(c)(2)(B) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States.

(2) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to such committees a report containing the following information:

(A) The total number of times suspected drug smugglers described in paragraph (1) have been pursued into the United States by aircraft operated by or with the support of Department of Defense personnel under the authority of section 374(b)(2)(C) of title 10, as amended by section 1104.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(D) Such other information and such recommendations as the Secretary considers appropriate regarding the use of Department of Defense personnel for purposes authorized in section 374(b) of title 10, United States Code, as amended by section 1104.

TITLE XII—GENERAL PROVISIONS

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PART D—MISCELLANEOUS

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SEC. 1232.[26] REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE * * *

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TITLE XIII—FOREIGN RELATIONS MATTERS

SEC. 1301. SENSE OF CONGRESS CONCERNING THE PANAMA CANAL AND THE UNITED STATES SOUTHERN COMMAND

(a) FINDINGS.—The Congress finds that—

(1) the security of, and the free flow of shipping through, the Panama Canal are vital interests of the United States; and

(2) the continued ability of the United States Southern Command (which currently has its headquarters in the Republic of Panama) to carry out assigned missions, especially the mission of defense of the Panama Canal, is essential to protecting and promoting the interests of the United States.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should take all steps necessary to ensure the continued ability of the United States Southern Command (or any successor command) to carry out assigned missions, especially the mission of defense of the Panama Canal.

SEC. 1302.[27] LIMITATION ON ASSISTANCE TO PANAMANIAN DEFENSE FORCE

(a) LIMITATION.—The President may not use any funds appropriated to or for the use of any department, agency, or other entity of the United States for the purpose of providing assistance to the Panamanian Defense Force. The limitation in the preceding sentence shall cease to apply upon the submission by the President to Congress of a certification by the President—

(1) that no armed forces of the Soviet Union, the Republic of Cuba, or the Republic of Nicaragua are present in the Republic of Panama (other than military attachés accredited to the Republic of Panama); and

(2) that General Manuel Noriega has relinquished command of the Panamanian Defense Force and no longer holds any official position of leadership (either military or civilian) in the Republic of Panama.

(b) CLARIFICATION.—Subsection (a) does not prohibit the President from obligating or expending any funds necessary for—

(1) the defense of the Panama Canal,

(2) the collection of intelligence,

(3) the maintenance of United States Armed Forces in the Republic of Panama, or

(4) the protection of United States interests in the Republic of Panama.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a detailed report, in both classified and unclassified form, indicating—

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[26] For text, see vol. II, sec. D.

[27] 22 U.S.C. 2151 note.

(1) whether (and to what extent) military, paramilitary, or intelligence personnel of the Soviet Union, Cuba, or Nicaragua are present in the Republic of Panama; and

(2) whether (and to what extent) the Panamanian Defense Force has coordinated with, cooperated with, supported, or received support from, any such personnel.

SEC. 1303. SENSE OF CONGRESS CONCERNING INDICTMENT OF GENERAL NORIEGA OF PANAMA ON DRUG-RELATED CHARGES

(a) FINDINGS.—The Congress finds that—

(1) General Manuel Noriega, the commander of the Panamanian Defense Force, was indicted on February 5, 1988, in the United States District Courts for the Southern District and for the Middle District of Florida on a number of serious drug-related charges against the laws of the United States, including charges involving trafficking in illegal drugs, protecting and supporting drug traffickers, and laundering of drug-related money; and

(2) there have been reports in the news media and from other sources that discussions between officials of the United States and General Noriega may have occurred concerning arrangements under which General Noriega would give up political power and leave the Republic of Panama in exchange for which the United States would file a motion to dismiss the indictments referred to in paragraph (1).

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the United States should not conduct or authorize any negotiations or discussions, and should not make any arrangements, with General Manuel Noriega which would involve any effort by the United States to dismiss the indictments referred to in subsection (a)(1); and

(2) that any such negotiation, discussion, or arrangement—

(A) would be incompatible with the high priority that the United States places on the war on drugs;

(B) would not further the prospects for restoring noncorrupt, democratic government to the Republic of Panama; and

(C) would not serve the interests of the United States.

SEC. 1304.[28] SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

SEC. 1305. HUMAN RIGHTS VIOLATIONS BY THE GOVERNMENT OF POLAND

(a) FINDINGS.—Congress makes the following findings:

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[28] See also section on Activities in Nicaragua, beginning on page 618.

(1) The government of Poland, headed by General Wojciech Jaruzelski, has violated internationally recognized human rights of the people of Poland, including the right to peaceably assemble, the right to strike, the right to freely associate, and the right to due process.

(2) The Jaruzelski government has retaliated against the justified, peaceful protests of workers at Nowa Huta, Poland, through the use of violence and force.

(3) The Jaruzelski government has prosecuted and imprisoned a number of persons for politically related offenses.

(4) The Jaruzelski government has to date refused to take steps which would guarantee the right of the people of Poland to participate in the management of the economy of Poland and has refused to accept the principle of pluralism in the national life of Poland.

(b) SENSE OF CONGRESS.—It is, therefore, the sense of Congress—

(1) that the use of force against the workers of Nowa Huta and intimidation against other strikers in Poland should be condemned; and

(2) that improvement in relations between the United States and Poland must be predicated on an improvement in internationally recognized human rights in Poland, including the release of political prisoners, steps toward trade union pluralism and the rights of independent trade unions to organize, and steps toward genuine national reconciliation and dialogue.

SEC. 1306. CONDITIONS FOR SALE OR OTHER TRANSFER OF F-15 AIRCRAFT TO SAUDI ARABIA

(a) Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F-15 aircraft shall be subject to the following conditions:

(1) Any such F-15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F-15-E with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F-15 aircraft at any time, except that additional replacement F-15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies Congress that the existing inventory of F-15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F-15 aircraft is totally removed from the inventory of Saudi Arabia.

(b) The President may waive subsection (a) if the President certifies to Congress that such action is in the national interest.

SEC. 1307. RESTRICTION ON SALE OF DEFENSE ARTICLES TO CERTAIN NATIONS

(a) RESTRICTION.—During fiscal year 1989, the United States may not make any sale of defense articles subject to section 36(b) of the Arms Export Control Act (22 U.S.C. 2776(b)) to any nation which has acquired intermediate-range ballistic missiles made by the People's Republic of China.

(b) Presidential Certification.—(1) The restriction in subsection (a) shall cease to apply with respect to any nation which has acquired such missiles upon certification by the President to Congress that that nation does not have chemical, biological, or nuclear warheads for those missiles.

(2) If the President makes a certification under paragraph (1) in the case of any nation, the President shall notify Congress promptly of any evidence that, after the date of such certification, such nation has acquired chemical, biological, or nuclear warheads for those missiles.

SEC. 1308. UNITED STATES BASES IN THE REPUBLIC OF THE PHILIPPINES

(a) Congressional Findings.—Congress makes the following findings:

(1) The United States has maintained military bases in the Philippines since 1947 pursuant to the United States-Philippine Military Bases Agreement and maintained military bases in the Philippines for many years before that under other arrangements.

(2) Clark Air Force Base, Subic Bay Naval Base, and the other United States military installations in the Philippines significantly promote the mutual interests of the United States and the Philippines and contribute to regional and global security.

(3) These installations are also important to the development of democratic institutions and to economic progress in the Western Pacific and Southeast Asia.

(4) The United States military installations in the Philippines employ a loyal and highly skilled cadre of Filipinos and make a substantial contribution to the Philippine economy.

(5) The Military Bases Agreement as currently in effect has a fixed term lasting until September 16, 1991, after which it continues in effect subject to termination by either party on one year's notice.

(6) Pursuant to a 1979 amendment to that agreement, the President of the United States pledged to the Government of the Republic of the Philippines to undertake "best efforts" to obtain security assistance for the Philippines, and such pledge was reiterated by the President of the United States in 1983 as part of a five-year review of the agreement.

(7) The United States and the Republic of the Philippines are currently engaged in a second five-year review of the Military Bases Agreement.

(8) Officials of the Government of the Republic of the Philippines have indicated to officials of the United States that the United States should significantly increase compensation for the use by the United States of military bases in the Philippines.

(9) The provision of multilateral economic assistance to the Republic of the Philippines should be considered separately from the provision of security assistance by the United States to the Republic of the Philippines in return for United States basing rights in the Philippines.

(b) Report on Facilities.—(1) The Secretary of Defense shall submit to Congress a report on the existing United States military facilities in the Republic of the Philippines. The report shall include analysis of the following:

(A) The costs and benefits of maintaining those facilities, including the costs to the United States of the operation and maintenance of those facilities and any other costs associated with those facilities and the economic and social benefits and other benefits of those facilities to the Republic of the Philippines.

(B) Potential alternative locations for those facilities.

(C) The strategic value to the United States of having military facilities located in the Philippines and of having such facilities at the potential alternative locations considered.

(D) The costs and benefits of relocating those facilities to the potential alternative locations, including—

(i) the cost to the United States of operation and maintenance and other costs,

(ii) the economic, social, and other costs to the Philippines, and

(iii) the economic, social, and other benefits to the government and community at each alternative location.

(E) The availability of skilled indigenous personnel at the potential alternative locations and the cost of training such personnel to work at such installations.

(2) The report shall be prepared in consultation with the Secretary of State and shall be submitted to Congress not later than six months after the date of the enactment of this Act.

SEC. 1309.[29] ANNUAL ASSESSMENT OF SECURITY AT UNITED STATES BASES IN THE PHILIPPINES

The Secretary of Defense shall submit to Congress an annual report assessing security at United States military facilities in the Republic of the Philippines. Each such report shall include an assessment of the cooperation provided by the Philippine Government, at both the national and local level, in improving such security. The report required by this subsection shall be submitted to Congress not later than May 1 each year.

SEC. 1310. ECONOMIC SANCTIONS AGAINST ETHIOPIA

(a) Statements of Policy.—The Congress—

(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest terms possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief vehicles and relief distribution points

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[29] 10 U.S.C. 113 note.

and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (through direct representations to the Government of Ethiopia and certain rebel groups and through sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and opinion upon the combatants in northern Ethiopia, to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Soviet Union in order that the peaceful resolution of the crisis in northern Ethiopia becomes a high priority of the Soviet Union and that the approach of the Soviet Union is consistent with that of the West.

(b) SANCTIONS.—(1) Notwithstanding any other provision of law, the President is authorized to, and is hereby strongly urged to, impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to paragraphs (2) and (3)) if, at any time after the date of the enactment of this Act, the Government of Ethiopia engages in any of the following outrages:

(A) Forced resettlement.

(B) Forced confinement in any resettlement camp.

(C) Diversion of international relief to the military.

(D) Denial of international relief to any persons at risk because of famine.

(E) Seizure of international relief assets provided by the United States.

(F) Prohibition of end-use monitoring of food distribution by international relief personnel.

(2) In imposing sanctions pursuant to paragraph (1) on imports from Ethiopia, the President shall give priority consideration to those products which constitute major imports from Ethiopia, unless the President determines that sanctions against such products would have an adverse effect on economic interests of the United States.

(3) If a sanction imposed pursuant to paragraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(c) REPORTS TO CONGRESS.—Not more than 15 days after the date of the enactment of this Act and at the end of each 90-day period thereafter, the President shall submit to Congress a report stating whether or not, during the 90-day period preceding the date of the report, the Government of Ethiopia engaged in any conduct described in subsection (b). Each such report shall describe the response of the United States to any such conduct.

(d) REGULATION AUTHORITY.—The President shall issue such regulations, licenses, and orders as are necessary to implement any sanction imposed under this section.

(e) EXPIRATION.—The authority provided by subsection (b) shall expire on June 1, 1990.

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c. Department of Defense Appropriations Act, 1989

Partial text of Public Law 100–463 [H.R. 4781], 102 Stat. 2270, approved October 1, 1988; as amended by Public Law 100–526 [Defense Authorization Amendments and Base Closure and Realignment Act, S. 2749], 102 Stat. 2623, approved October 24, 1988; and by Public Law 100–690 [Anti-Drug Abuse Act of 1988, H.R. 5210], 102 Stat 4181, approved November 18, 1988

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military functions administered by the Department of Defense, and for other purposes, namely:

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TITLE II

OPERATION AND MAINTENANCE

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HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $13,000,000, to remain available for obligation until September 30, 1990: *Provided,* That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress.

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TITLE VI

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $179,500,000, of which $117,300,000 shall remain available for obligation until September 30, 1989, $17,900,000 shall remain available for obligation until September 30, 1990, $44,300,000 shall remain available for obligation until September 30, 1991.

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TITLE VIII

GENERAL PROVISIONS

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SEC. 8010. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO and the State of Israel so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code:[1] *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further,* That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

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[1] For text of sec. 36, AECA, see page 289. For text of sec. 2457, title 10, U.S.C., see page 791.

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SEC. 8021. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided,* That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

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SEC. 8033. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 8034. None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(TRANSFER OF FUNDS)

SEC. 8035. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

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SEC. 8051.[2] Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 403(a) of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 403(b) of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action

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[2] 10 U.S.C. 401 note.

Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

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SEC. 8090. (a) None of the funds available to the Department of Defense shall be used to enter into any agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel until ninety days after a study by the United States Departments of Defense, State, and Commerce on the economic benefits of using United States coal at defense installations in Europe is completed and forwarded to Members of Congress: *Provided,* That this study should determine the extent of, and justification for, the economic benefits accruing to the Soviet Union from all prior and anticipated conversions of United States military installations in Europe to district heat and direct natural gas systems which utilize Soviet-supplied natural gas: *Provided further,* That this study should also address the issues raised by the economic analysis prepared by the Ambassador at Large on burdensharing negotiations to be appointed by the President as delineated by subsection (c) of section 8125 of this Act: *Provided further,* That the study also include a review of the modernization plan for the needed updating of the heating systems in the Kaiserslautern military community and the usage of United States produced coal: *Provided further,* That this study should be completed no later than July 1, 1989.

(b) Notwithstanding subsection (a), funds available to the Department of Defense may be used to enter into an agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel if the Secretary of Defense certifies in writing and provides a copy to the Committees on Appropriations of the House and Senate that such conversion is in the best interest of the Nation.

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PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

SEC. 8092.[3] (a) PROHIBITION.—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States.

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[3] 50 U.S.C. app. 2410a note. See also sec. 313 of Public Law 100-456, page 803.

SEC. 8097. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 104 of the Intelligence Authorization Act for fiscal year 1989.

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SEC. 8123. Whereas the Congress supports the President's goal of reducing United States and Soviet conventional forces in Europe and reducing United States and Soviet strategic nuclear forces;

Whereas it is important the Congress and the President be in agreement on United States national security goals and objectives in order for the United States to be in the strongest possible position to negotiate with the Soviet Union future reductions in conventional and strategic nuclear forces;

Whereas the Congress strongly opposes the undercutting of these arms reduction negotiations by either the United States or the Soviet Union through unnecessary military initiatives or counterproductive arms control proposals;

Whereas no decision has been made on the development or deployment of strategic defenses:

Therefore, it is the sense of the Congress that—

(1) in order to maintain the basis for strong deterrence, the Strategic Defense Initiative (SDI) should be a long-term and robust research program to provide the United States with expanded options for responding to a Soviet breakout from the 1972 Anti-Ballistic Missile Treaty and to respond to other future Soviet arms initiatives that might pose a grave threat to United States national security;

(2) by expanding potential United States strategic options the SDI research program can enhance United States leverage in the United States-Soviet arms reduction negotiations and serve as a safeguard for ensuring that negotiated agreements are kept;

(3) future research plans and budgets for SDI must be established using realistic projections of available resources in the overall defense budget and must not undercut other important Department of Defense programs; and

(4) in matching research priorities against available resources, the primary emphasis of SDI should be to explore promising new technologies, such as directed energy technologies, which might have long-term potential to defend against a responsive Soviet offensive nuclear threat.

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SEC. 8125.[4] (a)(1) Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the assignment of military missions among the member countries of North Atlantic Treaty Organization (NATO) and on the prospects for the more effective assignment of such missions among such countries.

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[4] 10 U.S.C. 113 note.

(2) The report shall include a discussion of the following:

(A) The current assignment of military missions among the member countries of NATO.

(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

(D) Any efforts that are underway within NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assignment of military missions within NATO.

(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

(c) The President shall appoint an Ambassador at Large responsible to the President who shall have the responsibility for ensuring a more balanced sharing of defense costs by the NATO members, Japan, the Republic of Korea, and other countries allied to the United States. Such responsibilities shall incude negotiations for burdensharing including increased in-kind and financial support by such countries for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries, and multi-lateral foreign assistance costs: *Provided*, That the Ambassador at Large should review (1) trade restrictions that require German utilities to purchase German-produced coal to the exclusion of foreign coal, including United States coal, and (2) the extent to which the tax on electricity used to subsidize German coal producers is borne by American military installations, American military dependents, or American civilians who support our military installations. The Ambassador at Large should prepare an economic analysis on the comparison of using German versus United States coal at defense facilities in Europe. This analysis should address the issues of all direct subsidies provided on German coal and restrictions imposed on imported coal and should be submitted to the Department of Defense, State, and Commerce for use in their study on the economic benefits of using coal at defense facilities in Europe.

(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1989 the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and the costs for all dependents who accompany Department of Defense personnel outside the Unied States.

(e) Not later than May 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report that sets forth the total costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

(f) As of September 30 of each fiscal year after fiscal year 1989, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation provided for the preceding sentence may be increased if and when a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

(g)(1) After fiscal year 1990, Department of Defense budget submissions to Congress under section 1105 of title 31, United States Code, shall identify funds requested for Department of Defense personnel and units in permanent duty stations ashore outside the United States that exceed the amount of such costs incurred in fiscal year 1989, and shall detail: (A) a description of the types of expenditures increased, by appropriation account, activity and program; and (B) specific efforts to obtain allied host nations' financing for these cost increases.

(2) The Secretary of Defense shall notify in advance the Committees on Appropriations and Armed Services of the House and Senate through existing notification procedures, when costs of maintaining Department of Defense personnel and units in permanent duty stations ashore will exceed the amounts as defined in the Department of Defense budget as enacted for that fiscal year. Such notification shall describe: (A) the type of expenditures that increased; and (B) the source of funds (including prior year unobligated balances) by appropriation account, activity and program, proposed to finance these costs.

(3) In computing the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States compared with the amount of such costs incurred in fiscal year 1989, the Secretary shall—

(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and

(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

(i) In this section—

(1) the term "personnel" means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

(2) the term "Department of Defense overseas personnel" means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

(3) the term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

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SEC. 8138. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided,* That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty first day following submission of an appropriate request for payment.

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SEC. 8144. (a) The Congress finds that—

(1) the armed forces of the Soviet Union have waged a brutal war of conquest against the people of Afghanistan for 8 years;

(2) foreign correspondents attempting to cover the war in Afghanistan have always been subject to extreme danger;

(3) the danger to foreign correspondents became even greater in 1984 when the Soviet Ambassador to Pakistan explicitly threatened foreign journalists entering Afghanistan in the company of the Afghan resistance, known as the mujaheddin;

(4) on September 19, 1985, Charles E. Thornton, a medical reporter for the Arizona Republic, was killed by Soviet troops while preparing a story about volunteer doctors in Afghanistan;

(5) on October 9, 1987, Lee Shapiro, of North Bergen, New Jersey, and Jim Lindelof, of California, were ambushed and murdered by Soviet troops while filming a documentary on the war in Afghanistan;

(6) the statements of Abdul Malik, the Afghan interpreter and guide who accompanied Lee Shapiro and Jim Lindelof and

who witnessed their deaths, demonstrate that the two Americans were straffed by helicopter gunships of the Soviet Union and shot by Soviet soldiers who then confiscated their equipment and film; and

(7) Charles E. Thornton, Lee Shapiro, and Jim Lindelof displayed great courage by facing the perils of war and the lethal threat directed against correspondents and ultimately gave their lives to inform the world of the struggle for liberty taking place in Afghanistan.

(b) It is the sense of the Congress that the President should posthumously award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof in honor of their brave efforts to document the Afghan struggle for freedom.

TITLE IX—ASSISTANCE FOR THE NICARAGUAN RESISTANCE [5]

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TITLE X—DEFENSE AUTHORIZATIONS

SEC. 10001.[6] ENACTMENT OF FISCAL YEAR 1989 DEFENSE AUTHORIZATION BILL.

The provisions of the bill H.R. 4481 of the One Hundredth Congress, as contained in the conference report filed in the House of Representatives on September 28, 1988 (House Report 100-989), are hereby enacted into law.

SEC. 10002.[6] TERMINATION OF PROVISIONS UPON ENACTMENT OF AUTHORIZATION BILL.

Section 10001 shall not take effect if the bill H.R. 4481 of the One Hundreth Congress is enacted before this Act. If that bill is enacted after this Act, the provisions of section 10001 shall cease to be effective upon the enactment of that bill.

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[5] For text of title IX and other legislation concerning Nicaragua, see sec. A.3.i., beginning page 618.

[6] H.R. 4481 was enacted into law on September 29, 1988, as Public Law 100-456, National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1918), making sec. 10001 not effective.

d. Defense Authorization Amendments and Base Closure and Realignment Act

Partial text of Public Law 100–526 [S. 2749], 102 Stat. 2623, approved October 24, 1988

AN ACT To provide certain additional fiscal year 1989 defense authorization policies, to provide procedures to facilitate the closure and realignment of obsolete or unnecessary military installations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE

This Act may be cited as the "Defense Authorization Amendments and Base Closure and Realignment Act".

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TITLE II—CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

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SEC. 206. REPORTS

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(b) STUDY.—(1) The Secretary shall conduct a study of the military installations of the United States outside the United States to determine if efficiencies can be realized through closure or realignment of the overseas base structure of the United States. Not later than October 15, 1988, the Secretary shall submit a report of the findings and conclusions of such study to the Commission and to the Committees on Armed Services of the Senate and the House of Representatives. In developing its recommendations to the Secretary under this title, the Commissions shall consider the Secretary's study.

(2) Upon request of the Commissions, the Secretary shall provide the Commissions with such information about overseas bases as may be helpful to the Commission in its deliberations.

(3) The Commission, based on its analysis of military installations in the United States and its review of the Secretary's study of the overseas base structure, may provide the Secretary with such comments and suggestions as it considers appropriate regarding the Secretary's study of the overseas base structure.

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e. National Defense Authorization Act for Fiscal Years 1988 and 1989

Partial text of Public Law 100-180 [H.R.1748], 101 Stat. 1019, approved December 4, 1987, as amended by the National Defense Authorization Act, Fiscal Year 1989 [Public Law 100-456, H.R. 4481], 102 Stat. 1918, approved September 29, 1988

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

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SEC. 107. AUTHORIZATION OF FUNDS FOR CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1988 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747),[1] in the amount of $125,100,000, of which—

(1) $94,100,000 shall be for operation and maintenance;

(2) $11,500,000 shall be for research, development, test and evaluation; and

(3) $19,500,000 shall be for procurement.

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PART C—MISCELLANEOUS PROVISIONS

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SEC. 125.[2] REVISION OF CHEMICAL DEMILITARIZATION PROGRAM

(a) DEFINITION.—For purposes of this section, the term "chemical stockpile demilitarization program" means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521),[1] to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

(b) ENVIRONMENTAL IMPACT STATEMENT.—The Secretary of Defense shall issue the final Programmatic Environmental Impact Statement on the chemical stockpile demilitarization program by

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[1] For text, see page 879.

[2] 50 U.S.C. 1521 note.

January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

(c) DISPOSAL TECHNOLOGIES.—(1) Funds appropriated pursuant to this Act or otherwise made available for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for an Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense certifies to Congress in writing that the concept plan under the program includes the following:

(A) Evaluation of alternate technologies for disposal of the existing stockpile and selection of the technology or technologies to be used for such purpose.

(B) Full-scale operational verification of the technology or technologies selected for such disposal.

(C) Maximum protection for public health and the environment.

(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

(d) ALTERNATIVE CONCEPT PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an alternative concept plan for the chemical stockpile demilitarization program. The alternative concept plan shall—

(1) incorporate the requirements of subsections (b) and (c); and

(2) specify any revised schedule or revised funding requirement necessary to enable the Secretary to meet the requirements of subsections (b) and (c).

The alternative concept plan shall be submitted by March 15, 1988.

(e) SURVEILLANCE AND ASSESSMENT PROGRAM.—The Secretary of Defense shall conduct an ongoing comprehensive program of—

(1) surveillance of the existing United States stockpile of chemical weapons; and

(2) assessment of the condition of the stockpile.

SEC. 126.[3] WITHDRAWAL OF EUROPEAN CHEMICAL STOCKPILE

Chemical munitions of the United States stored in Europe on the date of the enactment of this Act should not be removed from Europe unless such munitions are replaced contemporaneously with binary chemical munitions stationed on the soil of at least one European member nation of the North Atlantic Treaty Organization.

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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND PROGRAM LIMITATIONS

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[3] 50 U.S.C. 1513 note.

SEC. 207. FUNDS FOR COOPERATIVE PROJECTS WITH MAJOR NON-NATO ALLIES

Of the funds appropriated pursuant to the authorizations of appropriations for fiscal year 1988 in section 201, up to $40,000,000 shall be available for cooperative research and development projects with major non-NATO allies under section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-961).[4]

SEC. 208.[5] ONE-YEAR UNITED STATES MORATORIUM ON TESTING ANTI-SATELLITE WEAPONS

(a) TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (antisatellite weapon) involving the F-15 launched miniature homing vehicle against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated antisatellite weapon.

(b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1988.

PART B—PROGRAM POLICIES

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SEC. 220. SENSE OF CONGRESS ON STRATEGIC MISSILE MODERNIZATION PROGRAMS

(a) FINDINGS.—The Congress makes the following findings:

(1) It is essential that the nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces.

(2) The capabilities of the conventional forces of the United States and its allies will become more important if an agreement with respect to intermediate- range nuclear forces (INF) is concluded between the United States and the Soviet Union.

(3) It is both desirable and possible to reduce the reliance of the North Atlantic Treaty Organization on nuclear weapons for the defense of all members of the alliance if the member nations of the alliance assert the political will to reduce such reliance and establish sound defense priorities.

(4) The United States is currently procuring and deploying one land- based intercontinental ballistic missile system (the MX system) at significant cost while developing another such system (the so-called Midgetman system) at significant additional cost.

(5) Efforts to reduce the Federal budget deficit, which are imperative for the economic well being of the United States, will continue for the foreseeable future to require limits on all discretionary Federal spending, including defense spending.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the authorization of funds in this Act for research and development for both the new small mobile intercontinental ballistic missile (commonly known as the "Midgetman" missile) and the proposed rail-mobile basing mode for the

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[4] Should read Public Law 99-661. For text, see page 860.

[5] 10 U.S.C. 2431 note.

MX missile does not constitute a commitment or express an intent by Congress to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-mobile basing mode or both.

PART C—STRATEGIC DEFENSE INITIATIVE

Subpart 1—SDI Funding and Program Limitations and Requirements

SEC. 221. FISCAL YEAR 1988 FUNDING LEVEL FOR THE STRATEGIC DEFENSE INITIATIVE

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1988, not more than $3,621,000,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIED ACTIVITIES.—Of the funds available for the Strategic Defense Initiative program under subsection (a)—

(1) $27,000,000 shall be available only for a classified laser program;

(2) $15,000,000 shall be available only for medical applications of the free electron laser program for medical research and material; and

(3) $17,000,000 is available for defense-wide mission support for the Strategic Defense Initiative.

(c) DEFENSE-WIDE MISSION SUPPORT.—Of the amount appropriated for Defense Agencies for fiscal year 1987, $16,000,000 may be used for defense-wide mission support for the Strategic Defense Initiative.

SEC. 222.[6] PROHIBITION OF CERTAIN CONTRACTS WITH FOREIGN ENTITIES

(a) SDI CONTRACTS WITH FOREIGN ENTITIES.—Funds appropriated to or for the use of the Department of Defense may not be used for the purpose of entering into or carrying out any contract with a foreign government or a foreign firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Strategic Defense Initiative program.

(b) TEMPORARY SUSPENSION OF PROHIBITION UPON CERTIFICATION OF THE SECRETARY OF DEFENSE.—The prohibition in subsection (a) shall not apply to a contract in any fiscal year if the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that the research, development, testing, or evaluation to be performed under such contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the research, development, testing, or evaluation would be performed by a foreign firm.

(c) EXCEPTIONS FOR CERTAIN CONTRACTS.—The prohibition in subsection (a) shall not apply to a contract awarded to a foreign government or foreign firm if—

(1) the contract is to be performed within the United States;

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[6] 10 U.S.C. 2431 note.

(2) the contract is exclusively for research, development, test, or evaluation in connection with antitactical ballistic missile systems; or

(3) that foreign government or foreign firm agrees to share a substantial portion of the total contract cost.

(d) DEFINITIONS.—In this section:

(1) The term "foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

(2) The term "United States firm" means a business entity other than a foreign firm.

(e) TRANSITION.—The prohibition in subsection (a) shall not apply to a contract entered into before the date of the enactment of this Act.

SEC. 223.[6] LIMITATION ON TRANSFER OF SDI TECHNOLOGY TO SOVIET UNION

Military technology developed with funds appropriated or otherwise made available for the Strategic Defense Initiative may not be transferred, or made available for transfer, to the Soviet Union by the United States (or with the consent of the United States) unless—

(1) the President determines, and certifies to Congress, that the transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace; and

(2) Congress approves that determination by a joint resolution.

SEC. 224.[6] SDI ARCHITECTURE TO REQUIRE HUMAN DECISION MAKING

No agency of the Federal Government may plan for, fund, or otherwise support the development of command and control systems for strategic defense in the boost or post-boost phase against ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative human decision at an appropriate level of authority.

SEC. 225. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated to the Department of Defense for fiscal year 1988, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1988 or for any fiscal year before fiscal year 1988, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the April 1987 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti- ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the April 1987 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1988 if the transfer is made in accordance with section 1201 of this Act and any comparable provision in legislation appropriating funds for military functions of the Department of Defense for fiscal year 1988.

(b) DEFINITION.—As used in this section, the term "April 1987 SDIO Report" means the report entitled "Report to Congress on the Strategic Defense Initiative", dated April 1987, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 10 U.S.C. 2431 note).

SEC. 226.[6] PROHIBITION ON DEPLOYMENT OF ANTI-BALLISTIC MISSILE SYSTEM UNLESS AUTHORIZED BY LAW

The Secretary of Defense may not deploy any anti-ballistic missile system unless such deployment is specifically authorized by law after the date of the enactment of this Act.

SEC. 227.[6] ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) FINDINGS.—The Congress makes the following findings:

(1) The Department of Defense requires technical support for issues of system integration related to the Strategic Defense Initiative program.

(2) The Strategic Defense Initiative Organization, after assessing alternative types of organizations for the provision of such technical support to the Strategic Defense Initiative program (including Government organizations, profit and nonprofit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private nonprofit laboratories), determined that a new federally funded research and development center (hereinafter in this section referred to as an "FFRDC") would be the type of organization most appropriate for the provision of such technical support to the Strategic Defense Initiative program.

(3) In providing such technical support to the SDI program, the new FFRDC should provide critical evaluation and rigorous and objective analysis of technologies, systems, and architectures that are candidates for use in the SDI program.

(4) Competitive selection of a contractor to establish and operate such an FFRDC to support the Strategic Defense Initiative program is one way to enhance the prospects for independent and objective evaluation of system integration issues within the Strategic Defense Initiative program.

(b) AUTHORITY TO CONTRACT FOR FFRDC.—The Secretary of Defense, using funds appropriated to the Department of Defense for the Strategic Defense Initiative program, may enter into a contract to provide for the establishment and operation of a federally funded research and development center to provide independent and objective technical support to the Strategic Defense Initiative program. Such a contract may not be awarded before October 1, 1989.

(c) CONTRACT AWARD REQUIREMENTS.—(1) A contract under subsection (b) shall be awarded using competitive procedures which emphasize cost considerations.

(2) The Secretary of Defense shall solicit proposals for such contract from existing federally funded research and development centers, from universities, from commercial entities, and from appropriate new organizations and shall make maximum efforts to obtain more than one proposal for such contract.

(3) The Secretary shall submit the three best contract proposals (as determined by the Secretary), together with a copy of the proposed sponsoring agreement for the new FFRDC, for review by three persons designated by the Defense Science Board from a list of six or more persons submitted by the National Academy of Sciences. The persons performing the review—

(A) shall evaluate the extent to which each proposal and the proposed sponsoring agreement would foster competent and objective technical advice for the Strategic Defense Initiative Program; and

(B) shall report their evaluation of each such proposal and of the proposed sponsoring agreement to the Secretary.

(4) Before awarding a contract under subsection (b), and not sooner than March 30, 1989, the Secretary shall submit to Congress—

(A) a copy of the proposed final contract; and

(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC.

(5)(A) The Secretary shall then withhold the award of such contract and the approval of such sponsoring agreement for a period of at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives the copies referred to in paragraph (4).

(B) For purposes of subparagraph (A), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress. In computing the 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded.

(d) REQUIREMENTS APPLICABLE TO FFRDC.—The Secretary of Defense shall—

(1) require that the contract referred to in subsection (b) include a provision stating that no officer or employee of the Department of Defense shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

(2) require that at least 5 percent of the total amount of funds available for the new FFRDC shall be set aside for independent research to be performed by the staff of the new FFRDC under the direction of the chief executive officer of the new FFRDC;

(3) impose a limitation on the compensation payable to each senior executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to senior executives of comparable federally funded research and development centers for similar services;

(4) require that the new FFRDC publicly disclose the salary of its chief executive officer;

(5) prohibit current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees of the FFRDC if such members constitute 10 or more percent of the Board of Trustees or from serving as officers of the new FFRDC;

(6) require that the contract referred to in subsection (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC, except that a Board member may serve as the President of the new FFRDC if the Board is comprised of 10 or more members;

(7) require that the contract referred to in subsection (b) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, served in the Strategic Defense Initiative Organization within two years before the date on which such person is to be employed by the new FFRDC; and

(8) require that any contract referred to in subsection (b) require that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program.

(e) FUNDING.—The Secretary of Defense shall provide that all funds for the new FFRDC within the Department of Defense budget for any fiscal year shall be separately identified and set forth in the budget presentation materials submitted to Congress for that fiscal year

(f) SUNSET PROVISION.—No Federal funds may be provided to the new FFRDC after the end of the five-year period beginning on the date of the award of the first contract awarded to the FFRDC under this section.

Subpart 2—Report Requirements

SEC. 231.[6] ANNUAL REPORT ON SDI PROGRAMS

(a) IN GENERAL.—Not later than March 15, 1988, and March 15, 1989, the Secretary of Defense shall transmit to Congress a report (in both an unclassified and a classified form) on the programs that constitute the Strategic Defense Initiative and on any other program relating to defense against ballistic missiles. Each such report shall include the following:

(1) A detailed description of each program or project included in the Strategic Defense Initiative (SDI) or which otherwise relates to defense against strategic ballistic missiles, including a technical evaluation of each such program or project and an assessment as to when each can be brought to the stage of full-

scale engineering development (assuming funding as requested or programmed).

(2) A clear definition of the objectives of each phase of the Strategic Defense Initiative Organization plan approved by the Defense Acquisition Board.

(3) An explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(5) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the Antiballistic Missile Treaty.

(6) A review of possible countermeasures of the Soviet Union to specific SDI programs, an estimate of the time and cost required for the Soviet Union to develop each such countermeasure, and an evaluation of the adequacy of the SDI programs described in the report to respond to such countermeasures.

(7) Details regarding funding of programs and projects for the Strategic Defense Initiative, including—

(A) the level of funding provided for the current fiscal year and for previous fiscal years for each program and project in the Strategic Defense Initiative budgetary presentation materials provided to Congress;

(B) the amount requested to be appropriated for each such program and project for the next fiscal year;

(C) the amount programmed to be requested for each such program and project for the following fiscal year; and

(D) the amount required to reach the next significant milestone for each demonstration program and each major technology program.

(8) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending elements of the Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites, including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of United States population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(9) For each of the near-term military missions listed in paragraph (8), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish such missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach those operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of such architectures or systems against current and projected Soviet threats.

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SEC. 232. REPORT ON SDI DEVELOPMENT PLANS AND COSTS

(a) Report Requirement.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the total cost to develop, produce, deploy, operate, and maintain the ballistic missile defense system that would incorporate the technologies approved by the Secretary of Defense in authorizing proceeding into the demonstration/validation phase of the acquisition process. Should this system not be sufficiently defined, the system described in the 1987 report entitled "Report of the Technical Panel on Missile Defense in the 1990s", prepared by the George C. Marshall Institute, should be used as a basis for determining cost.

(b) Deadline for Report; Classification.—The report under subsection (a) shall be submitted no later than six months after the date of the enactment of this Act and shall be submitted in unclassified form.

SEC. 233. REPORT ON HOW ABSENCE OF THE ABM TREATY WOULD AFFECT STRATEGIC OFFENSIVE AND DEFENSIVE PROGRAMS

(a) Report on No ABM Treaty Limitations.—The Secretary of Defense shall submit to Congress a report concerning what the effect would be on strategic offensive and defensive programs of the United States if there were no limitations on strategic defensive systems in force under the 1972 ABM Treaty.

(b) Matters To Be Included.—The report shall include the following:

(1) An analysis of the ramifications of there being no limitation in force under the 1972 ABM Treaty on development under the Strategic Defense Initiative (SDI) program of strategic defenses, including comprehensive strategic defense sys-

tems and more limited defenses designed to protect vital military and command and control assets of the United States.

(2) A comparison (based on the analysis made under paragraph (1)) of the research and development programs that could be pursued under the SDI program under the limitations applicable under the restrictive interpretation of the 1972 ABM Treaty, under the less restrictive interpretation of such treaty, and under a case in which there were no such limitations, including a comparative analysis of—

(A) the overall cost of such research and development programs;

(B) the schedule of such research and development programs; and

(C) the level of confidence attained in such research and development programs with respect to supporting a decision to commence full-scale engineering development under such programs in the early-to-mid 1990s.

(3) A list of options for the SDI program, assuming that there are no limitations in force under the 1972 ABM Treaty, that meet one or more of the following objectives:

(A) Reduction of overall development cost.

(B) Advancement of the schedule for making a decision to commence full-scale engineering development.

(C) Increase in the level of confidence in the results of the research by the original scheduled date for the commencement of full-scale development.

(4) An analysis of how rapidly, in the absence of limitations under the 1972 ABM Treaty, the Soviet Union could deploy a nationwide anti-ballistic missile defense of military and nonmilitary targets and the consequences of such a deployment. The analysis should include an assessment of the following:

(A) The effect of such deployment on the confidence of the United States that, should deterrence that depends increasingly on defensive forces fail, the planned strategic nuclear forces of the United States would be sufficient to hold assets that the leaders of the Soviet Union value at risk following a first strike by the Soviet Union against the United States.

(B) The changes that must be made to the strategic offensive forces of the United States to hold assets that the leaders of the Soviet Union value at risk in the presence of strategic defenses. The analysis should include both the cost of those changes and the time period scale over which they could be accomplished.

(C) The consistency of the required changes to United States strategic offensive forces of the United States described under subparagraph (B) with the current United States negotiating position in the Strategic Arms Reduction (START) negotiations.

(D) The degree to which crisis stability would be affected during the transition period between the appearance of nationwide anti-ballistic missile defenses by both the United States and the Soviet Union and the completion of the changes that the United States would make to its strategic offensive forces in response to such defenses by the Soviet Union.

(5) An analysis of the effect on deterrence of nuclear conflict if both the United States and Soviet Union deploy strategic defenses of comparable capability, considering both less capable and highly capable strategic defenses, as well as appropriate transition issues (including the effect on deterrence of the potential vulnerability of strategic defenses).

(c) Deadline for Report.—The report under subsection (a) shall be submitted not later than March 1, 1988.

(d) Report Classification.—The report under subsection (a) shall be submitted in both classified and unclassified versions.

(e) 1972 ABM Treaty Defined.—In this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

SEC. 234. REPORT ON ALLOCATION OF FY88 FUNDING

(a) In General.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1988. The report shall set out the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) Deadline for Report.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1988.

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TITLE III—OPERATION AND MAINTENANCE

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Part C—Humanitarian and Other Assistance

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a) Authorization of Funds.—There is authorized to be appropriated to the Department of Defense for fiscal year 1988 the sum of $13,000,000 for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of this sum, not more than $3,000,000 is authorized to be used for distribution of humanitarian relief supplies to the non-Communist resistance organizations at or near the border between Thailand and Cambodia.

(b) Authority to Transfer Funds.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in this section shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in this section shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriations Acts.

(f) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1988. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under this section and section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3856).[7]

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section and section 331 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.[8]

SEC. 332. [9] * * *

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TITLE IX—MATTERS RELATING TO ARMS CONTROL [10]

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[7] For text, see page 859.

[8] For text, see page 794.

[9] Sec. 332 added a new section 402 to title 10 U.S.C. and made other technical changes to sec. 401. For text, see page 782.

[10] For text, see vol. II, sec. F.

TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

PART A—NATO DETERRENCE

SEC. 1001. REPORT ON REQUIREMENTS FOR MAINTAINING NATO'S STRATEGY OF DETERRENCE

(a) REQUIREMENT.—The Secretary of Defense shall submit to Congress a report regarding the ability of the North Atlantic Treaty Organization (NATO) to maintain its strategy of deterrence through the 1990s. The report shall include a specific discussion of the implications for such deterrence if the United States and the Soviet Union agree to a treaty which requires the elimination of all intermediate-range nuclear force (INF) missiles having a range between 500 and 5,500 kilometers. The report shall be prepared in consultation with the Supreme Allied Commander, Europe, and the Chairman of the Joint Chiefs of Staff.

(b) FORM AND CONTENT OF REPORT.—The Secretary shall submit the report required by subsection (a) in both classified and unclassified forms and shall include in the report the following:

(1) A discussion of the effect that the elimination under an INF treaty of intermediate range missiles deployed by the United States and the Soviet Union would likely have on the ability of NATO to maintain an effective flexible response strategy and credible deterrence.

(2) The appropriate numbers and types of nuclear weapons and nuclear-capable delivery systems of the United States not limited by the proposed INF treaty which the Secretary of Defense recommends for deployment in or redeployment to the European theater if an INF treaty is ratified and enters into force, including a description of any nuclear modernization program the Secretary has recommended or proposes to recommend as necessary to ensure that NATO will be able to maintain a credible and effective military strategy.

(3) A discussion of the balance between the nonnuclear forces of NATO and the Warsaw Pact in the European theater, the likelihood of NATO making significant improvements in that balance over the next few years, the potential effect of conventional force balance alternatives currently under consideration by the United States Government, and the likelihood and potential effect of a new agreement between NATO and the Warsaw Pact limiting nonnuclear forces on that balance.

(4) A discussion of the feasibility and cost effectiveness of substituting advanced conventional munitions for nuclear weapons currently deployed by NATO, including a discussion of the costs of such weapons and prospects for sharing such costs among NATO allies.

(5) A description of nonnuclear forces that would be needed to support the operational concept of Follow-on Forces Attack (FOFA).

(6) The status of improvements being made in the air defenses of NATO in Europe.

(7) A discussion of the views of the leaders of member nations of NATO (other than the United States) and of the Su-

preme Allied Commander, Europe (SACEUR), on the matters described in paragraphs (1) through (5).

(c) DEADLINE OF REPORT.—The report required by subsection (a) shall be submitted not later than the earlier of—

(1) 90 days after the date of the enactment of this Act; or

(2) the date on which the President submits to the Senate for its advice and consent a treaty described in subsection (a).

SEC. 1002. SENSE OF CONGRESS ON LEVEL OF UNITED STATES FORCES PERMANENTLY STATIONED IN EUROPE IN SUPPORT OF NATO

(a) FINDINGS.—The Congress makes the following findings with respect to the level of United States military forces permanently stationed in Europe:

(1) The agreement in principle between the United States and the Soviet Union to eliminate all intermediate-range nuclear missiles has important implications for the defense posture of the North Atlantic Treaty Organization alliance.

(2) The presence of United States forces in Europe constitutes the most visible and meaningful evidence of the continuing strong commitment of the United States to the integrity of the alliance.

(3) NATO Defense Ministers stated in May 1987 that the "continued presence of United States forces at existing levels in Europe plays an irreplaceable role in the defense of North America as well as Europe".

(b) SENSE OF CONGRESS.—(1) In light of the findings in subsection (a), it is the sense of Congress that—

(A) the stationing in Europe of United States military forces in support of NATO at the level of military personnel permanently stationed in Europe in support of NATO on the date of the enactment of this Act plays an indispensable role for peace and deterrence; and

(B) the commitment of United States forces should be continued at that level (assuming all existing basing agreements remain in effect).

(2) It is further the sense of Congress that it would not be inconsistent with the sense of Congress expressed in paragraph (1) if the actual number of United States military personnel permanently stationed in Europe in support of NATO at any time falls below the level of such personnel on the date of the enactment of this Act because of administrative fluctuations or if such level is reduced following a determination by the President that national security considerations require such a reduction.

SEC. 1003. STUDY OF FUTURE OF NATO

The Secretary of Defense shall contribute, from funds appropriated for fiscal year 1988 for operation and maintenance of Defense Agencies, the amount of $50,000 to the North Atlantic Assembly for a study on the future of the North Atlantic Treaty Organization.

PART B—BURDEN SHARING

SEC. 1011. STUDY OF DEFENSE EXPENDITURES IN JAPAN

(a) IN GENERAL.—The Secretary of Defense shall conduct a study of the ways in which the United States may further its national security interests in the Far East.

(b) REPORT.—Within 90 days after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on such study. The report shall contain—

(1) the plans of the Department of Defense in the current five-year defense plan for defense expenditures for each fiscal year covered by the plan to be made in support of United States security interests in the Far East and, of such planned expenditures in each such fiscal year, how much is attributable to projected increases in defense outlays for that fiscal year;

(2) the projections for national defense expenditures by Japan for each such fiscal year;

(3) the projections for national defense expenditures by the United States directly in support of United States forces, facilities, and equipment stationed or located in Japan for each such fiscal year; and

(4) the projections for national defense expenditures by Japan directly in support of United States forces stationed in Japan for each such fiscal year.

SEC. 1012. SENSE OF CONGRESS REGARDING JAPAN'S CONTRIBUTIONS TO GLOBAL STABILITY

(a) FINDINGS.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) Threats to the security of both the United States and Japan have increased significantly since 1976, principally as the result of—

(A) the occupation of Afghanistan by the Soviet Union;

(B) the continued expansion and buildup of military forces of the Soviet Union (particularly the expansionist efforts by the Soviet Union in the South Pacific and the buildup of the Soviet Pacific fleet);

(C) the occupation of Cambodia by Vietnam; and

(D) instability in the Persian Gulf region (from which Japan receives 60 percent of its petroleum and one-third of its total energy requirements).

(3) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of our countries is indivisible and must be approached on a global basis", the government of Japan—

(A) has raised its defense spending by an average of 5 percent per year since 1981;

(B) has rescinded a limit on annual expenditures for defense of 1 percent of the gross national product of Japan; and

(C) is fulfilling the pledge of Prime Minister Suzuki to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 miles by 1990.

(4) While recognizing and applauding the actions by the government of Japan referred to in paragraph (3), Congress notes that Japan has the second largest gross national product in the world, is a major creditor nation, and has a large private savings rate, but nevertheless lags far behind other industrialized democracies in terms of the percentage of its gross national product that it spends for national defense and programs to promote global security and stability.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increasing spending for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(2) Devoting increased spending for its Official Development Assistance program primarily to the Republic of the Philippines and regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

(3) Devoting any increase in spending for that program primarily to concessional, untied grants and increasing the portion of total expenditures made for that program for those multilateral financial institutions of which Japan is a member.

(4) Designating those nations that are to be recipients of increased development assistance as described in paragraphs (1) through (3) through consultation with its security partners.

(5) Completing its five-year defense program for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, further enhancing the fulfillment of the pledge of Prime Minister Suzuki referred to in subsection (a)(3).

PART C—PROCUREMENT MATTERS

SEC. 1021.[11] OVERSEAS WORKLOAD PROGRAM

(a) IN GENERAL.—A firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

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[11] 10 U.S.C. 2341 note

(b) **Site for Performance of Work.**—A contract awarded during fiscal year 1988 or 1989 to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) **Exceptions.**—The Secretary of a military department may restrict the geographic region in which a contract referred to in subsection (a) may be performed if the Secretary determines that performance of the contract outside that specific region—

(1) could adversely affect the military preparedness of the Armed Forces of the United States; or

(2) would violate the terms of an international agreement to which the United States is a party.

(d) **Report Requirement.**—(1) Not later than December 1, 1988, the Secretary of Defense shall submit to Congress a report on the nature of the maintenance, repair, and overhaul work of the Department of Defense performed under the program of the Department of Defense known as the Overseas Workload Program.

(2) The report shall include the following:

(A) A description of the categories of work performed under that program and the costs associated with those categories of work.

(B) A description of the capabilities of facilities that United States firms have established in Europe to perform work under that program.

(C) A description of the capabilities to perform work under that program by firms in the United States, Canada, and countries that are major non-NATO allies of the United States.

(D) A description of the maintenance, repair, and overhaul work under that program that could be performed in the United States or Canada, or in a country that is a major non-NATO ally, on a cost-effective basis and without a significant adverse effect on the readiness of the Armed Forces of the United States.

(E) A list and detailed explanation of each of the instances, through October 31, 1988, in which the Secretary of a military department exercised the authority provided in subsection (c).

(e) **Definition.**—For purposes of this section, the term "major non-NATO ally" has the meaning given that term by section 1105(g)(1) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661).[12]

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SEC. 1023. REPORT ON CO-PRODUCTION OR CO-ASSEMBLY OF M1A1 TANK

(a) **In General.**—The Secretary of Defense shall submit to Congress a detailed report on any plans of the Department of Defense as of the time of the submission of the report regarding co-production or co-assembly of the M1 or M1A1 Abrams tank with a foreign country. The Secretary shall include in such report the following:

(1) The status of any current negotiations by the Secretary of Defense with any foreign country regarding the co-production

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[12] Sec. 1105(g)(1) of Public Law 99-661 defined "major non-NATO ally" as a country designated such by the Secretary of Defense with the concurrence of the Secretary of State.

or co-assembly of the M1 or M1A1 tank by the United States and that country.

(2) A comparison of the long-term effects on the United States mobilization base of production of such tank under a co-production or co-assembly arrangement with a foreign country.

(3) The effect an arrangement with a foreign country for the co-production or co-assembly of such tank would have on the national security of the United States.

(b) Deadline for Report.—The Secretary shall submit the report required under subsection (a) not later than 90 days after the date of the enactment of this Act.

(c) Classification of Report.—The Secretary shall submit the report required under subsection (a) in both classified and unclassified form.

SEC. 1024. WEAPONS STORAGE AND SECURITY SYSTEMS

(a) Limitation on Installation.—Funds appropriated or otherwise made available to the Department of Defense for fiscal years 1988 and 1989 may not be expended for installation of Weapons Storage and Security Systems (WSSS) in the territory of any European member nation of the North Atlantic Treaty Organization until the Secretary of Defense certifies to Congress that the construction program with respect to such systems is eligible for common financing under the NATO Infrastructure program.

(b) Effect of INF Treaty.—If a treaty on Intermediate Range Nuclear Forces (INF) is ratified before the certification under subsection (a) is made, the Secretary shall submit with the certification a plan for revising the installation of those systems in order to reflect any additional requirements resulting from that treaty.[13]

(c) Milestones.—The Secretary shall submit with the certification under subsection (a) a description of the key milestones for entering into contracts under the program and for reaching an agreement concerning NATO financing and shall include a certification that all available steps are being taken to accelerate agreement with NATO on a final plan for recoupment of advance funding by the United States for the installation of such systems.

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TITLE XI—DEPARTMENT OF DEFENSE MANAGEMENT

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Part C—Security and Counterintelligence Matters

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SEC. 1122.[14]

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[13] For text of INF treaty, ratified on June 1, 1988, see vol. V, sec. F.

[14] Sec. 1122 required the Secretary of Defense to submit to Congress a report assessing Soviet electronic espionage capabilities from the Mount Alto embassy site. For text of sec. 1122 and related legislation, see vol. II, sec. D.

TITLE XII—GENERAL PROVISIONS

PART C—MISCELLANEOUS REPORTS

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SEC. 1222. REPORT ON CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

(a) REPORT REQUIREMENT.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall submit to Congress a joint report on contingency plans of the Department of Defense and the Department of Energy for dealing with significant disruptions in the supply to the United States of crude oil produced by the nations of the Persian Gulf region. The report shall be prepared with the assistance of the Secretary of State.

(2) If the Secretary of Defense and the Secretary of Energy find it necessary to classify the report (or any portion of the report), a nonclassified version containing all energy policy recommendations made by the two Secretaries shall be transmitted with the report.

(b) MATTERS TO BE STUDIED.—In preparing the report required by this section, and any periodic update to that report, the Secretaries shall—

(1) ascertain the extent to which the Armed Forces of the United States, the civilian economy of the United States, and the nations of the free world (with specific reference to the NATO allies and to other strategic allies of the United States) currently depend on crude oil produced in the Persian Gulf region;

(2) prepare a range of estimates on the types of disruptions that could occur in the supply of crude oil from the Persian Gulf region and the effect of each such disruption (including duration) on reduced availability of crude oil supply from the oil producing nations of the Persian Gulf;

(3) develop a range of plans for dealing with supply disruptions and shortages of crude oil from the Persian Gulf region, including—

(A) the role and use of existing domestic crude oil production, other non-Persian Gulf sources of the world supply of crude oil, and the Strategic Petroleum Reserve; and

(B) the use of any emergency power or authority provided for by existing law; and

(4) identify and review any bilateral or multilateral agreement (including the International Energy Agreement) which commits or obligates the United States to furnish crude oil or petroleum products to other nations.

(c) RECOMMENDATIONS.—The report under subsection (a) shall set forth the policy and legislative recommendations of the Secretaries for improving the ability of the United States to respond effectively to problems created by significant disruptions in the production, transportation, and supply of crude oil in the Persian Gulf region.

(d) COST ESTIMATES.—The report under subsection (a) shall include estimates of the total annual and per barrel cost of Persian

Gulf crude oil to the world economy and to the United States economy.

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PART E—MISCELLANEOUS MATTERS

SEC. 1241.[15] GAO STUDY OF THE CAPABILITIES OF THE UNITED STATES TO CONTROL DRUG SMUGGLING INTO THE UNITED STATES

(a) STUDY REQUIREMENT.—The Comptroller General of the United States shall conduct a comprehensive study regarding smuggling of illegal drugs into the United States and the current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller General shall—

(1) assess the national security implications of the smuggling of illegal drugs into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the effect on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as passed the House of Representatives on May 20, 1987,[16] as if such section were enacted into law and were to become effective on January 1, 1988;

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted along the United States-Mexico border beginning on August 29, 1987, and include in the assessment information relating to the cost of conducting the operation, the personnel and equipment used in such operation, the com-

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[15] 21 U.S.C. 801 note.

[16] Sec. 825 of H.R. 1748 provided the following:

"SEC. 825. ENHANCED AUTHORITY OF MEMBERS OF THE ARMED FORCES IN DRUG INTERDICTION ACTIVITIES

"(a) IN GENERAL.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (2), the Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substance Act (21 U.S.C. 801 et seq.) or the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces under the Secretary's jurisdiction to assist drug enforcement officials of that agency in searches, seizures, and arrests outside the land area of the United States (or of any territory or possession of the United States) in connection with the enforcement of those Acts.

"(2) Members may be assigned to provide assistance under paragraph (1) only if—

"(A) the Attorney General certifies that there are insufficient law enforcement resources available to ensure the success of the operation;

"(B) the assistance is approved by the Secretary of Defense with the concurrence of the Secretary of State; and

"(C) Federal drug enforcement officials maintain control over the activities and direction of any drug enforcement operation.

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The text of sec. 825, as it appeared in the House passed version on May, 20, 1987, was not retained when H.R. 1748 was enacted into law as Public Law 100–180.

mand and control relationships in such operation, and the legal issues involved in such operation;

(5) determine whether giving the Armed Forces a more direct, active role in drug interdiction activities would enhance the morale and readiness of the Armed Forces;

(6) determine what assets are currently available to and under consideration for the Department of Defense, the Department of Transportation, the Department of Justice, and the Department of the Treasury for the detection of airborne drug smugglers;

(7) assess the current plan of the Customs Service for the coordinated use of such assets;

(8) determine the cost effectiveness and the capability of the Customs Service to use effectively the information generated by the systems employed by or planned for the Department of Defense, the Coast Guard, and the Customs Service, respectively, to detect airborne drug smugglers;

(9) determine the availability of current and anticipated tracking, pursuit, and apprehension resources to use the capabilities of such systems; and

(10) at a minimum, assess the detection capabilities of the Over-the-Horizon Backscatter radar (OTH-B), ROTHR, aerostats, airships, and the E-3A, E-2C, P-3, and P-3 Airborne Early Warning aircraft (including any variant of the P-3 Airborne Early Warning aircraft).

(b) Reports.—(1) Not later than April 30, 1988, the Comptroller General shall, as provided in paragraph (3), submit a report on the results of the study required by subsection (a) with respect to the elements of the study specified in paragraphs (1) through (5) of that subsection.

(2) As soon as practicable after the report under paragraph (1) is submitted, and not later than March 31, 1989, the Comptroller General shall, as provided in paragraph (3), submit a report on the results of the study required by subsection (a) with respect to the elements of the study specified in paragraphs (6) through (10) of that subsection.

(3) The reports under paragraphs (1) and (2) shall be submitted to—

(A) the Committees on Armed Services, the Judiciary, Foreign Relations, and Appropriations of the Senate;

(B) the Committees on Armed Services, the Judiciary, Foreign Affairs, and Appropriations of the House of Representatives;

(C) the members of the Senate Caucus on International Narcotics Control; and

(D) the Select Committee on Narcotics Abuse and Control of the House of Representatives.

(4) The reports under this subsection shall be submitted in both classified and unclassified forms and shall include such comments and recommendations as the Comptroller General considers appropriate.

SEC. 1242. TRANSFER OF FUNDS TO THE COAST GUARD

Of the amounts appropriated to the Department of Defense for fiscal years 1988 and 1989, the Secretary of Defense shall transfer to the Secretary of Transportation funds to assist in providing for the Law Enforcement Detachment program of the Coast Guard as follows:

(1) $3,000,000 from amounts appropriated for fiscal year 1988.

(2) $6,000,000 from amounts appropriated for fiscal year 1989.

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TITLE XIV—FOREIGN RELATIONS MATTERS

SEC. 1401. COMMENDATION OF ARMED FORCES IN PERSIAN GULF FOR SUCCESS OF CERTAIN OPERATIONS

(a) FINDINGS.—Congress makes the following findings:

(1) The Armed Forces of the United States are currently engaged in operations in the Persian Gulf, including operations to escort United States flag vessels moving through the Gulf, in order to protect national security interests of the United States and the principle of freedom of navigation in international waters.

(2) The government of Iran, through the use of its armed forces and revolutionary guards, is engaging in ongoing activities, including the laying of mines in international waters, to disrupt shipping in the Persian Gulf.

(3) During the night of September 21-22, 1987, Army and Naval forces of the United States detected an Iranian minelaying activity underway in international waters in the Persian Gulf and, in an outstanding instance of joint military operations, tracked and neutralized the boat carrying out the mine laying.

(4) On October 8, 1987, elements of the Armed Forces of the United States, acting jointly, successfully defended themselves against an attack by Iranian forces in the Persian Gulf.

(5) The success of those joint operations (A) serves notice to Iran that the United States will react decisively and effectively to such hostile activities, and (B) may result in reduced risk to United States interests in the Persian Gulf.

(6) There is precedent throughout the history of the United States for Congress to recognize and commend similar operations by the Armed Forces of the United States, including Congressional praise on February 3, 1802, of "the gallant conduct" of certain members of a United States Naval force in the Wars with the Barbary Powers.

(b) CONGRESSIONAL COMMENDATIONS.—The Congress hereby—

(1) declares that those members of the Armed Forces who participated in the joint operations of September 21-22, 1987, and October 8, 1987, in the Persian Gulf acted in the finest military and naval traditions of the United States and displayed exemplary professionalism, skill, and dedication; and

(2) commends those members, and all members of the Armed Forces who acted in support of those operations, for their participation in those important and successful operations.

SEC. 1402. SENSE OF THE SENATE REGARDING JUSTIFICATION FOR SINKING IRANIAN VESSELS

It is the sense of the Senate that the Armed Forces of the United States are fully justified in sinking any Iranian vessel which threatens the safe passage of (1) any warship of the United States, or (2) any other vessel known to have on board any citizen of the United States. This section shall not in itself be construed as legislative authority for any specific military operation.

SEC. 1403. UNITED STATES POLICY TOWARD PANAMA

(a) Findings.—The Congress makes the following findings:

(1) The executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces.

(2) A broad coalition of church, business, labor, civic, and political groups in Panama has called for an objective and thorough investigation of allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces and has insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

(3) The Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of the use of excessive force by the Panamanian Defense Forces.

(4) Political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate respect for and adherence to all provisions of the Panamanian constitution.

(b) Policy.—Therefore, it is the sense of Congress that, subject to the condition expressed in subsection (c), the United States should take the following actions:

(1) Cease all economic and military assistance provided to the Government of Panama under the Foreign Assistance Act of 1961 and the Arms Export Control Act, other than assistance to meet immediate humanitarian concerns.

(2) Suspend all shipments of military equipment (including spare parts for military equipment) to the Government of Panama or to any of its agencies or institutions.

(3) Reassess whether the United States should terminate the importation into the United States of sugar, syrup, and molasses produced in Panama and reallocate among other foreign countries the quantities of such products that otherwise would be imported from Panama.

(c) Conditions.—It is further the sense of Congress that the United States should take the actions described in subsection (b) unless, within 45 days after the date of the enactment of this Act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders

have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) all constitutional guarantees, including freedom of the press, have been restored to the people of Panama.

SEC. 1404. CONGRESSIONAL STATEMENTS CONCERNING VIETNAMESE OCCUPATION OF CAMBODIA AND JAPANESE TRADE WITH VIETNAM

(a) Findings.—The Congress finds that—

(1) during the nine years since Vietnam invaded Cambodia in late 1978, most Western countries have pledged to maintain an embargo on trade with and developmental aid to Vietnam until Vietnamese troops are withdrawn from Cambodia;

(2) Japan joined in this embargo by freezing approximately $135,000,000 in grants and concessionary loans to Vietnam and reducing trade levels with Vietnam from $220,000,000 in 1978 to $120,000,000 the following year;

(3) despite the fact that 140,000 Vietnamese troops continue to occupy Cambodia, Japan's economic ties with Vietnam have grown steadily since 1982, reaching a current annual trade level of $230,000,000;

(4) this trade has included trade in goods and technology which enhances the productive capacity and the infrastructure base of Vietnam; and

(5) the 65,000,000 people of Vietnam are a tempting lure for investors seeking low wages and for traders seeking new markets.

(b) Condemnation of Vietnamese Occupation of Cambodia.—The Congress hereby—

(1) reaffirms its condemnation of the continued Vietnamese occupation of the sovereign State of Cambodia, an activity which violates all standards of conduct befitting a responsible nation and contravenes all recognized principles of international law; and

(2) reaffirms its call for Vietnam to withdraw from Cambodia as the only way Vietnam can expect to end its self-induced economic isolation.

(c) Statement on Japanese Trade With Vietnam.—The Congress hereby strongly urges the Government of Japan to—

(1) continue to refrain from granting to Vietnam any official economic assistance;

(2) refrain from granting to Vietnam any form of trade financing, including export credits, trade-related credit insurance, and extended loans for infrastructure development;

(3) continue to discourage its private business sector from exporting to Vietnam goods and technology which enhance the productive capacity and the infrastructure base of Vietnam, including in particular equipment for—

(A) oil exploration and development,

(B) forestry and fishery production,

(C) development of raw materials for light industries, and

(D) the upgrading of export productive capacities; and

(4) strongly discourage the private business sector of Japan from providing financing which in any way facilitates trade with Vietnam.

SEC. 1405.[17] SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

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[17] Other legislation on Nicaragua may be found at page 618.

f. Department of Defense Authorization Act, 1987

Partial text of Public Law 99-661 [S. 2638], 100 Stat. 3816, approved November 14, 1986, amended by Public Law 100-456 [National Defense Authorization Act, Fiscal Year 1989, H.R. 4481], 102 Stat. 1918, approved September 29, 1988

AN ACT To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

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TITLE I—PROCUREMENT

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PART A—FUNDING AUTHORIZATIONS

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SEC. 106. EXTENSION OF CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Effective on October 1, 1986, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1986" both places it appears and inserting in lieu thereof "fiscal year 1987".

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PART B—STRATEGIC DEFENSE INITIATIVE

SEC. 211. FISCAL YEAR 1987 FUNDING LEVEL FOR STRATEGIC DEFENSE INITIATIVE

Of the amount authorized in section 201 for research, development, test, and evaluation for the Defense Agencies, not more than $3,213,000,000 is available for the Strategic Defense Initiative (SDI) Program.

SEC. 212. JOINT DEVELOPMENT OF ANTITACTICAL BALLISTIC MISSILE SYSTEM

Of the funds available for the Strategic Defense Initiative under section 211, not more than $50,000,000 shall be available for the joint development, on a matching fund basis, of an anti-tactical ballistic missile system for deployment with NATO allies and other countries that the United States has invited to participate in the Strategic Defense Initiative Program.

SEC. 213.[1] LIMITATION ON ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER FOR THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) LIMITATION.—The Secretary of Defense may not obligate or expend any funds for the purpose of operating a Federally funded research and development center that is established for the support of the Strategic Defense Initiative Program after the date of the enactment of this Act unless—

(1) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report with respect to such proposed center that provides the information described in subsection (b); and

(2) funds are specifically authorized to be appropriated for such purpose after the date of the enactment of this Act in and Act other than—

(A) an appropriations Act; or

(B) a continuing resolution.

(b) CONTENT OF REPORT.—A report submitted under subsection (a)(1) with respect to a proposed center shall include a discussion of—

(1) the ability of existing Federally funded research and development centers, Federal research laboratories, and private contractors to perform the objectives of technological integration and evaluation required by the Strategic Defense Initiative Organization;

(2) the comparative cost of having the proposed work performed by—

(A) the Strategic Defense Initiative Organization;

(B) Federally funded research and development centers in existence on the date of the enactment of this Act;

(C) by Federal research laboratories; or

(D) by private research laboratories;

(E) by such center;

(3) whether such center is intended to be—

(A) primarily a study and analysis center; or

(B) primarily a system engineering/system integration center;

(4) whether such center will be required or authorized to enter into contracts under which research projects would be performed by other Federally funded research and development centers, Federal research laboratories, or private contractors;

(5) whether the contract to operate such center will be awarded on a competitive basis;

(6) whether proposals with respect to the operation of such center—

(A) will be considered by the appropriate Defense Agency; and

(B) will be subjected to review by persons to be elected by the National Academy of Sciences;

(7) whether such center will be designed to prevent even the possibility of an appearance of conflict of interest—

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[1] 10 U.S.C. 2431 note.

(A) by prohibiting any officer, employee, or member of the governing body of such center from holding any position with—

(i) the Strategic Defense Initiative Organization; or

(ii) a private contractor that has a substantial interest in the development of the Strategic Defense Initiative; and

(B) by prohibiting more than one-half of the members of the governing body of the proposed Federally Funded Research Center from simultaneously holding any position with the Strategic Defense Initiative Advisory Committee or any similar body which provides technologies, scientific, or strategic advice to the Department of Defense about the Strategic Defense Initiative;

(8) whether other actions will be taken to avoid possible conflict of interest situations within such center;

(9) the role of the Department of Defense in—

(A) the selection of the staff of such center; and

(B) the internal organization of such center; and

(10) whether a prescribed minimum percentage of the annual budget of such center will be set aside for research to be conducted independently of the Department of Defense.

(c) COMPTROLLER GENERAL REPORT.—The Comptroller General of the United States shall also submit a report to Congress providing an analysis of the items in subsection (b) as appropriate.

SEC. 214.[2] REPORT ON PROJECTED COSTS OF SDI PROGRAM * * *

SEC. 215.[3] REPORT ON STRATEGIC DEFENSE INITIATIVE DEPLOYMENT SCHEDULE—* * * [Repealed—1987]

SEC. 216. EFFECT OF STRATEGIC DEFENSE INITIATIVE ON COMPLIANCE WITH THE ANTI-BALLISTIC MISSILE TREATY

(a) FINDINGS.—The Congress makes the following findings:

(1) The President's Commission on Strategic Forces declared in its report to the President, dated March 21, 1984, that "One of the most successful arms control agreements is the Anti-Ballistic Missile Treaty of 1972".

(2) The Secretary of State has stated that the "ABM Treaty requires consultations and the President has explicitly recognized that any ABM-related deployments arising from research into ballistic missile defenses would be a matter for consultations and negotiations between the Parties".

(3) The Secretary of State declared on October 14, 1985, that "our research program has been structured and, as the President has reaffirmed, will continue to be conducted in accordance with a restrictive interpretation of the treaty's obligations".

(4) The President has determined that the Krasnoyarsk rather is a violation of the ABM Treaty.

(5) The Krasnoyarsk radar therefore erodes the integrity of the ABM Treaty and is a matter of serious concern.

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[2] Sec. 214 amended sec. 223(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 613). For text, see page 871.

[3] Sec. 215 was repealed by sec. 231 of Public Law 100-180 (101 Stat. 1019).

(b) CONGRESSIONAL DECLARATIONS.—The Congress therefore declares—

(1) that it fully supports the declared policy of the President that a principal objective of the United States in negotiations with the Soviet Union on nuclear and space arms is to reverse the erosion of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed on May 26, 1972 (commonly referred to as the "ABM Treaty"); and

(2) that action by the Congress in approving funds in this Act for research on the Strategic Defense Initiative—

(A) does not express or imply an intention on the part of Congress that the United States should abrogate, violate, or otherwise erode such treaty; and

(B) does not express or imply any determination or commitment on the part of Congress that the United States develop, test, or deploy ballistic missile strategic defense weaponry that would contravene such treaty.

SEC. 217. REPORT ON THE ANTI-BALLISTIC MISSILE TREATY

(a) REPORT ON LESS RESTRICTIVE INTERPRETATION.—The Secretary of Defense shall submit to Congress a report concerning the effect of the less restrictive interpretation of the Anti-Ballistic Missile Treaty on the Strategic Defense Initiative program.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An analysis of the ramifications of the less restrictive interpretation on the development under the Strategic Defense Initiative Program, of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital United States military and command and control assets, based on "other physical principles". This analysis should compare research and development programs pursued under both the restrictive and less restrictive interpretations of such treaty including a comparative analysis of—

(A) the overall cost of the research and development programs.

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early 1990's.

(2) A list of options under the less restrictive interpretation of such treaty that meet one or more of the following objectives:

(A) Reduction of the overall development cost.

(B) Advancement of the schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than February 1, 1987.

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PART C—HUMANITARIAN AND OTHER ASSISTANCE

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a)[4] TRANSPORTATION, ADMINISTRATION, AND DISTRIBUTION OF HUMANITARIAN RELIEF SUPPLIES TO AFGHAN REFUGEES. * * *

(b) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1987. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 617) (as amended by subsection (a)).[4]

(2) the number of scheduled and completed flights for purposes of providing humanitarian relief under section 305 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.[5]

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TITLE X—ARMS CONTROL MATTERS[6]

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TITLE XI—MATTERS RELATING TO NATO AND OTHER ALLIES

SEC. 1101.[7] MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK * * *

SEC. 1102.[8] NATO COOPERATIVE LOGISTIC SUPPORT AGREEMENTS

(a) GENERAL AUTHORITY.—The Secretary of Defense may enter into bilateral or multilateral Weapon System Partnership Agreements (as defined in subsection (g)) with one or more governments of other member countries of the North Atlantic Treaty Organization (NATO) for the purpose of providing cooperative logistics support for the armed forces of the countries which are parties to the agreements. Such agreements may include provision for the transfer of logistics support, supplies, and services by the United States to the NATO Maintenance and Supply Organization and for the acquisition of logistics support, supplies, and services by the United States from such Organization.

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[4] Sec. 331(a) amended sec. 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 617). For text, see page 873.

[5] For text, see page 794.

[6] For text, see vol. II, sec. F.

[7] Sec. 1101 amended chapter 2 of part II of the Foreign Assistance Act of 1961, by adding a new section 516. For text, see page 164.

[8] 10 U.S.C. 2407 note.

(b) AUTHORITY OF SECRETARY OF DEFENSE.—Under the terms of a Weapon System Partnership Agreement entered into under subsection (a), the Secretary of Defense may—

(1) agree that the NATO Maintenance and Supply Organization may make contracts for supply and acquisition of logistics support in Europe for requirements of the United States, to the extent the Secretary determines that the procedures of such Organization governing such supply and acquisition are appropriate; and

(2) share the costs of set-up charges of facilities for use by the NATO Maintenance and Supply Organization to provide cooperative logistics support and share in the costs of establishing a revolving fund for initial acquisition and replenishment of supply stocks to be used by the NATO Maintenance and Supply Organization to provide cooperative logistics support.

(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Weapon System Partnership Agreement shall provide for joint management by the participating countries and for the equitable sharing of the administrative costs incident to such agreement.

(d) APPLICATION OF CHAPTER 137.—Except as provided in this section, the provisions of chapter 137 of title 10, United States Code, shall apply to contracts entered into by the Secretary of Defense for the acquisition of logistics support under a Weapon System Partnership Agreement.

(e) APPLICATION OF ARMS EXPORT CONTROL ACT.—The transfer of defense articles or defense services to member countries of the North Atlantic Treaty Organization and the NATO Maintenance and Supply Organization for the purposes of a Weapon System Partnership Agreement shall be carried out in accordance with the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(f) SUPPLEMENTAL AUTHORITY.—The authority of the Secretary of Defense under this section is in addition to the authority of the Secretary under chapter 138 of title 10, United States Code, and any other provision of law.

(g) DEFINITION.—For the purpose of this section, the term "Weapon System Partnership Agreement" means an agreement between the United States and one or more other NATO countries participating in the operation of the NATO Maintenance and Supply Organization that—

(1) is entered into pursuant to the terms of the chapter of the NATO Maintenance and Supply Organization; and

(2) is for the common logistic support of a specific weapon system common to the participating countries.

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SEC. 1105.[9] COOPERATIVE RESEARCH AND DEVELOPMENT WITH MAJOR NON-NATO ALLIES

(a) FINDINGS.—The Congress finds—

(1) that the North Atlantic Treaty Organization Cooperative Research and Development program instituted during fiscal year 1986 has served to increase cooperation in research and

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[9] 22 U.S.C. 2767a.

development among member countries of the North Atlantic Treaty Organization; and

(2) that additional benefits of cooperation in research and development might ensue from an extension of the program to include major non-NATO allies of the United States.

(b) CONGRESSIONAL REQUEST FOR COOPERATION ON RESEARCH AND DEVELOPMENT.—The Congress urges and requests the President and the Secretary of Defense to pursue diligently opportunities for the United States and major non-NATO allies of the United States to cooperate—

(1) in research and development on defense equipment and munitions; and

(2) in the production of defense equipment.

(c) FUNDS FOR COOPERATIVE PROJECTS.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201, up to $40,000,000 shall be available for cooperative research and development projects with major non-NATO allies.

(d) RESTRICTIONS.—(1) A memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section may not be entered into unless the Secretary of Defense determines that the proposed project enhances the ongoing multinational effort to improve conventional defense capabilities through the application of emerging technology.

(2) Each such cooperative project shall require sharing of the costs of research between the participants on an equitable basis.

(3) The Secretary may not delegate the authority to make a determination under paragraph (1) except to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

(e) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of major non-NATO allies in cooperative research and development projects, funds made available under subsection (c) for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

(2) A major non-NATO ally may not use any United States military or economic assistance grants, loans, or other funds for the purpose of making its contribution to a cooperative research and development program entered into with the United States under this section.

(f) NOTICE TO CONGRESS.—The Secretary[10] of Defense and the Secretary of State, whenever they consider such action to be warranted,[11] shall jointly submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report—

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[10] Sec. 1007(1) of Public Law 100-456 (102 Stat. 2040) amended sec. 1105(f) at this point by striking out "Not later than January 1 of each year, the Secretary" and inserting in lieu thereof "The Secretary".

[11] Sec. 1007(2) of Public Law 100-456 (102 Stat. 2040) amended sec. 1105(f) at this point by inserting text beginning with ", whenever they consider * * *".

(1) enumerating those countries to be added to or deleted from the existing designation of countries[12] eligible for participation with the United States in a cooperative research and development program authorized by this section; and

(2) specifying the criteria used in determining eligibility for the participation of such countries.

(g) DEFINITIONS.—As used in this section:

(1) The term "major non-NATO ally" means a country designated as a major non-NATO ally for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

(2) The term "cooperative research and development project" means a project involving joint participation by the United States and one or more major non-NATO allies under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

(A) to develop new conventional equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

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TITLE XIII—GENERAL PROVISIONS

PART A—FINANCIAL MATTERS

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SEC. 1303. AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN CURRENCY PURCHASES

There is hereby authorized to be appropriated for fiscal year 1987 the amount of $3,500,000 for the purchase of foreign currencies from the Treasury Department to pay expenses incurred in carrying out programs of the Department of Defense.

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PART F—MISCELLANEOUS

SEC. 1351.[13] LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN DEMOCRATIC RESISTANCE

(a) LIMITATION.—Notwithstanding title II of the Military Construction Appropriations Act, 1987, or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).

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[12] Sec. 1007(3) of Public Law 100-456 (102 Stat. 2040) amended sec. 1105(f)(1) at this point by inserting text beginning with "to be added * * *".

[13] Other legislation on Nicaragua may be found at page 618.

(b) REPORT.—Before funds appropriated or otherwise made available to the Department of Defense are released to be used for the purpose described in subsection (a), the Secretary of Defense shall submit to Congress a report describing the specific source of such funds.

SEC. 1352. BUDGET ACCOUNTING FOR NEW SPACE SHUTTLE

Funds appropriated for the procurement of a shuttle orbiter by the National Aeronautics and Space Administration to replace the Challenger space shuttle orbiter may not be charged by any official of the executive or legislative branch against major budget function category 050 (National Defense).

SEC. 1353. PROMPT REPORTING OF INTELLIGENCE ON TERRORIST THREATS

(a) IN GENERAL.—(1) Subject to subsection (b), the Secretary of Defense shall instruct all appropriate officials of the Department of Defense to take such action as may be necessary to ensure that all credible, time-sensitive intelligence received by or otherwise available to United States officials concerning potential terrorist threats to—

(A) United States citizens or facilities (including citizens and facilities overseas); or

(B) any other potential target for terrorist activities designated by the Secretary,

is reported promptly to the headquarters or office of the Department of Defense concerned.

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SEC. 1364. FOREIGN ESPIONAGE ACTIVITIES IN THE UNITED STATES

(a) CONGRESSIONAL FINDINGS AND POLICIES.—The Congress makes the following findings:

(1) The conduct of espionage activities (including the collection of classified and unclassified technological information) by the diplomatic and consular missions of the Soviet Union and certain other foreign diplomatic and consular missions within the United States (as well as by certain employees of international organizations acting on behalf of the Soviet Union or certain other foreign countries) represents a grave threat to the security of the United States.

(2) The conduct of such activities constitutes a gross abuse of the rights, privileges, and immunities accorded to persons assigned to such missions, including the right to enter and reside within the United States (or any particular area thereof).

(3) The Soviet Union and certain other countries take advantage of the free and open society of the United States to carry out espionage against the United States.

(4) The United States should take immediate and effective action to counteract espionage by the Soviet Union and certain other countries.

(5) It is fully consistent with international law and the international obligations of the United States to take reasonable measures to prevent such activities, including measures which would (A) impose restrictions on the travel of such foreign offi-

cials within the United States, and (B) close to such officials certain areas of the United States.

(b) Congressional Policy.—The Congress declares that it is the policy of the United States to impose appropriate restrictions (including travel restrictions) on the official representatives of any foreign country, as well upon the nationals of such country who are employed by international organizations, when the President determines that a pattern of abuses by that nation exists.

(c) Report on Foreign Espionage.—(1) The President shall submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report on foreign espionage in the United States. Such report shall include the following:

(A) An assessment of the effect of espionage activities in the United States conducted by the Soviet Union and certain other countries whose intelligence activities pose a threat to the national security of the United States.

(B) An assessment of how such countries use the freedom to travel within the United States, accorded to the officials of such countries, to engage in espionage activities against the United States.

(C) An assessment of the advantages and disadvantages of the principle of diplomatic reciprocity and the consequences of such reciprocity on the national security of the United States.

(D) Recommendations for measures to curtail espionage against the United States, including the following:

(i) Prohibiting the personnel of certain foreign governments and certain international organizations from traveling in designated areas of the United States.

(ii) Identifying the governments to whose nationals such restrictions are to apply.

(iii) Identifying those foreign governments which have closed certain areas of their countries to United States diplomatic and consular personnel and, in the case of each such country, the number of such closed areas and the size of such areas in relation to the total area of the country.

(2) The report shall be prepared under the direction of the Secretary of State and in close cooperation with the Secretary of Defense, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation.

(3) The report required by paragraph (1) shall be submitted in both a classified and unclassified version.

(4) Such report shall be submitted not later than March 1, 1987.

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SEC. 1368. SENSE OF CONGRESS REGARDING THE DEATH OF LIEUTENANT COLONEL ARTHUR D. NICHOLSON, JUNIOR

(a) Findings.—The Congress finds the following:

(1) On March 24, 1985, Lieutenant Colonel Arthur D. Nicholson, Junior, of the United States Army (then holding the grade of major) was carrying out his official duties as a liaison officer of the United States Military Liaison Mission.

(2) On that date, Lieutenant Colonel Nicholson was performing his duties in uniform and in an open and direct manner, according to orders, and was conducting himself in a way which was neither provocative nor beyond the limits of proper conduct for members of the United States Military Liaison Mission, and which was well understood and accepted by the Soviet Union.

(3) On that date, a member or members of the armed forces of the Soviet Union shot and fatally wounded Lieutenant Colonel Nicholson without warning and without provocation.

(4) After having shot Lieutenant Colonel Nicholson, members of the armed forces of the Soviet Union forcibly restrained Lieutenant Colonel Nicholson's aide and prevented him from providing medical assistance to Lieutenant Colonel Nicholson, so that Lieutenant Colonel Nicholson died slowly and with great suffering, which death and suffering might have been prevented had Lieutenant Colonel Nicholson been permitted to receive assistance.

(5) The death of Lieutenant Colonel Nicholson was an untimely, unnecessary, cold-blooded murder committed against a United States military officer in pursuit of his official duties by a member or members of the armed forces of the Soviet Union, in a painful and degrading manner.

(b) SENSE OF CONGRESS.—The Congress deplores and condemns the cold-blooded murder of Lieutenant Colonel Arthur D. Nicholson, Junior. It is the sense of Congress that the Government of the Soviet Union should—

(1) apologize for and renounce the murder of Lieutenant Colonel Nicholson; and

(2) indemnify the family of Lieutenant Colonel Nicholson financially.

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SEC. 1371. NUCLEAR WINTER STUDY AND REPORT

(a) STUDY.—The Secretary of Defense shall conduct a comprehensive study on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges and the implications that such consequences have for the nuclear weapons, arms control, and civil defense policies of the United States.

(b) REPORT.—Not later than November 1, 1987, the Secretary shall submit to the President and the Congress an unclassified report suitable for release to the public, with classified addenda if necessary, on the study conducted under subsection (a). The report shall contain the following:

(1) A detailed review and assessment of the findings in the current body of domestic and international scientific literature on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such findings have on—

(A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment;

(B) the nuclear arms control policy of the United States; and

(C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

(5) A plan for a five-year research program to advance understanding of nuclear winter and an estimate of the funding necessary to carry out such a research program.

(c) Evaluation of Report.—Upon submission of the report under subsection (b), the Secretary shall contract with the National Academy of Sciences to—

(1) make an independent evaluation of the material contained in the report; and

(2) not later than April 1, 1988, submit a report to the Secretary of Defense and to the Committees on Armed Services of the Senate and of the House of Representatives, setting forth the results of the evaluation and may recommendations pertaining to the contents of the report, including the plan for the five-year research program.

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SEC. 1373. DRUG INTERDICTION

(a) Comprehensive Program.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a comprehensive program designed to interdict aircraft, vessels, and vehicles carrying illegal drugs into the United States. The program shall include the following:

(1) A clear division of authority in drug interdiction and drug enforcement efforts among all Federal law enforcement agencies involved in those efforts and a mechanism which will insure maximum coordination and cooperation among those agencies.

(2) Designation of a lead agency principally responsible for each of the following areas: marine and air drug interdiction beyond the borders of the United States; domestic and border drug interdiction efforts; and domestic and foreign drug law enforcement efforts.

(3) A requirement that such lead agency shall be advised where possible in advance of activities by any other agency in its area of responsibility and that, upon objection by the lead agency, the matter shall be referred to the National Drug Enforcement Policy Board for resolution.

(4) A comprehensive plan to enhance the capabilities, manpower and equipment of the United States Coast Guard by the end of fiscal year 1989 in order to substantially increase the role of the Coast Guard in drug interdiction and enforcement

efforts. Such plan shall specify requirements for command and control between the Coast Guard and the Department of Defense and civilian drug law enforcement and interdiction agencies.

(5) A comprehensive plan to maximize, to the extent it does not adversely affect military preparedness and consistent with the provisions of chapter 18 of title 10, United States Code, assistance by the Department of Defense to other agencies in the drug enforcement and interdiction effort.

(6) A requirement that maximum use be made of existing Department of Defense and Coast Guard command and control networks as well as other available military resources, including equipment, intelligence, and training capabilities.

(b) REPORT—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report discussing the following:

(1) Recommendations for amendments to chapter 18 of title 10, United States Code, to allow more efficient use of the Armed Forces in combating illegal drug trafficking.

(2) The legal consequences of amending chapter 18 of title 10, United States Code, to permit the direct participation of members of the Armed Forces in the interdiction of vessels or aircraft, search and seizure, arrest, or other similar activity in the assistance of civilian law enforcement officials.

(3) The amount of training, the cost of training, and the number of military personnel required to effectuate the changes referred to in paragraph (2).

(4) The effect on military preparedness of a drug interdiction program that would require the Armed Forces to halt the unlawful penetration of the United States borders by aircraft and vessels carrying narcotics and that would use military personnel to locate, pursue, and seize such vessels and aircraft and to arrest their crews.

(5) The costs in the areas of procurement, operation and maintenance, and personnel which would be necessary to restore military preparedness to the level existing before commencement of the program described in paragraph (4).

(6) The cost and number of aircraft, vessels, and personnel needed to seal the borders of the United States, including Alaska and Hawaii, to interdict the unlawful penetration of aircraft, vessels, and ground traffic carrying narcotics.

(7) The cost and number of aircraft and personnel needed to provide continuous aerial radar coverage of the United States in order to interdict the unlawful penetration of aircraft carrying narcotics.

(8) The cost and number of rotor wing and fixed wing aircraft needed to pursue and seize intruding aircraft detected by the radar coverage referred to in paragraph (7) including a plan for the deployment of such rotor wing and fixed wing aircraft.

(9) The effect of carrying out the program referred to in paragraph (4) of the United States' ability to meet its defense

responsibilities, particularly to members of the North Atlantic Treaty Organization, Japan, Korea, and Australia.

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g. Department of Defense Authorization Act, 1986

Partial text of Public Law 99-145 [S. 1160], 99 Stat. 583, approved November 8, 1985; as amended by Public Law 99-190 [H.J. Res. 465]; 99 Stat. 1185, approved December 19, 1985; Public Law 99-661 [S. 2638], 100 Stat. 3816, approved November 14, 1986, and by Public Law 100-456 [H.R. 4481], 102 Stat. 1918, approved September 29, 1988

AN ACT To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—PROCUREMENT

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PART A—FUNDING AUTHORIZATIONS

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SEC. 106. NATO COOPERATIVE PROGRAMS

(a) AUTHORIZATION OF APPROPRIATIONS FOR COOPERATIVE DEFENSE PROGRAMS.—(1) There is hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1986 the amount of $75,000,000 for North Atlantic Treaty Organization cooperative defense programs as follows:

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, $30,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, $15,000,000.

For acquisition of point air defense and port defense for facilities in Belgium, $15,000,000.

For acquisition of point air defense of United States airbases in Turkey, $15,000,000.

(2) None of the amounts appropriated pursuant to the authorizations in paragraph (1) may be obligated—

(A) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a copy of each government-to-government agreement relating to that program; or

(B) for acquisitions in connection with a NATO cooperative defense program in which the financial obligations of the

United States exceed the collective financial obligations of European countries in connection with such program.

(b) Extension of Authority Provided Secretary of Defense in Connection With the NATO AWACS Program.—Effective on October 1, 1985, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97–86; 95 Stat. 1100), is amended by striking out "fiscal year 1985" both places it appears and inserting in lieu thereof "fiscal year 1986".

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Part B—Strategic Defense Initiative

SEC. 221. FUNDING FOR FISCAL YEAR 1986

Of the amount authorized in section 201 for the Defense Agencies, $2,750,000,000 is available for the Strategic Defense Initiative, of which $12,500,000 is available only for the medical application of free-electron lasers and associated material and physical science research.

SEC. 222.[1] REQUIREMENT FOR SPECIFIC AUTHORIZATION FOR DEPLOYMENT OF STRATEGIC DEFENSE INITIATIVE SYSTEM

A strategic defense system developed as a consequence of research, development, test, and evaluation conducted on the Strategic Defense Initiative program may not be deployed in whole or in part unless—

(1) the President determines and certifies to Congress in writing that—

(A) the system is survivable (that is, the system is able to maintain a sufficient degree of effectiveness to fulfill its mission, even in the face of determined attacks against it); and

(B) the system is cost effective at the margin to the extent that the system is able to maintain its effectiveness against the offense at less cost than it would take to develop offensive countermeasures and proliferate the ballistic missiles necessary to overcome it; and

(2) funding for the deployment of such system has been specifically authorized by legislation enacted after the date on which the President makes the certification to Congress.

SEC. 223. REPORTS ON STRATEGIC DEFENSE INITIATIVE

(a) Report on Potential Responses to SDI and on RDT&E Cost.—(1) The Secretary of Defense shall submit to Congress a report as to—

(A) what probable responses can be expected from potential enemies should the Strategic Defense Initiative programs be carried out to procurement and deployment, such as what increase may be anticipated in offensive enemy weapons in an enemy's attempt to penetrate the defensive shield by increasing the number or qualities of its offensive weapons:

(B) what can be expected from potential enemies in the deployment of weapons not endangered by the Strategic Defense

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[1] 10 U.S.C. 139 note.

Initiative, such as cruise missiles and low trajectory submarine missiles;

(C) the degree of the dependency of success for the Strategic Defense Initiative upon a potential enemy's anti-satellite weapons capability; and

(D) the cost estimates for the research, development, test, and evaluation for the proposed Strategic Defense Initiative.

(2) The report required by paragraph (1) shall be submitted to Congress with the request of the Secretary of Defense for appropriations for the Strategic Defense Initiative for fiscal year 1987.

(b) REPORT ON PROCUREMENT AND DEPLOYMENT COST.—The Secretary of Defense shall submit to Congress a report on the cost estimates for procurement and deployment of Strategic Defense Initiative programs. The report shall be submitted as soon as possible but not later than submission of the budget request of the Department of Defense for fiscal year 1989. The Secretary shall include in such report the following information: [2]

(1) [2] The cost goals or cost objectives for the production and deployment of a Strategic Defense Initiative System determined on the basis of capabilities expected to be developed in the future and the cost goals or cost objectives for the individual components of such system (determined on the basis of capabilities expected to be developed in the future).

(2) [2] The estimated cost for production and deployment of the Strategic Defense Initiative System referred to in paragraph (1) and determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report and the estimated cost for the production and deployment of the individual components of such system (determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report).

SEC. 224. CONGRESSIONAL POLICY REGARDING CONSULTATION WITH OTHER MEMBERS OF NATO ON THE STRATEGIC DEFENSE INITIATIVE

(a) COMMENDATION OF PRESIDENT'S ACTION.—The Congress commends the President's attempts to initiate cooperation between the United States and other member nations of the North Atlantic Treaty Organization (NATO) on the Strategic Defense Initiative.

(b) CONSULTATION AND COOPERATION WITH OTHER NATO NATIONS.—It is the sense of Congress—

(1) that the mutual defense of NATO member nations is strengthened when there is a high degree of consultation and cooperation among member nations; and

(2) that the President should continue consultations with other member nations of NATO on the Strategic Defense Initiative program and, to the maximum extent feasible and within national security guidelines, keep such member nations informed of the progress, plans, and potential proposals of the United States regarding such program.

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[2] Sec. 214 of Public Law 99–661 added the last sentence and subpar. (1) and (2).

SEC. 225. CONGRESSIONAL EXPRESSION ON THE STRATEGIC DEFENSE INITIATIVE AND THE ABM TREATY

(a) Findings Regarding ABM Treaty.—The Congress finds—

(1) that the President's Commission on Strategic Forces declared in its report to the President, dated March 21, 1984, that "One of the most successful arms control agreements is the Anti-Ballistic Missile Treaty of 1972"; and

(2) that the Secretary of State has stated that the "ABM treaty requires consultations, and the President has explicitly recognized that any ABM-related deployments arising from research into ballistic missile defenses would be a matter for consultations and negotiation between the Parties".

(b) Sense of Congress Regarding SDI and the ABM Treaty.—It is the sense of Congress—

(1) that it fully supports the declared policy of the President that a principal objective of the United States in negotiations with the Soviet Union on nuclear and space arms is to reverse the erosion of the Anti-Ballistic Missile Treaty of 1972;

(2) that action by the Congress in approving funds for research on the Strategic Defense Initiative—

(A) does not express or imply an intention on the part of the Congress that the United States should abrogate, violate, or otherwise erode such treaty; and

(B) does not express or imply any determination or commitment on the part of the Congress that the United States develop, test, or deploy ballistic missile strategic defense weaponry that would contravene such treaty; and

(3) that funds appropriated for the Strategic Defense Initiative program should not be used in a manner inconsistent with any of the treaties commonly known as the Limited Test Ban Treaty, the Threshold Test Ban Treaty, the Outer Space Treaty, or the Anti-Ballistic Missile Treaty of 1972.

SEC. 226. REPORT ON STRATEGIC AND THEATER BALLISTIC MISSILE DEFENSES

(a) Requirement for Study.—The Secretary of Defense shall conduct a study to examine the feasibility and military value of the early application of defenses against ballistic missile attack from the standpoint of—

(1) defending high value United States and allied capabilities abroad; and

(2) defending United States strategic deterrent capabilities.

(b) Matters To Be Included in Study.—The study shall specifically address—

(1) the contribution such defenses could make to deterrence stability;

(2) the adequacy in this regard of existing programs, including in particular the Strategic Defense Initiative; and

(3) the adequacy of the Army's Anti-Tactical Missile (ATM) program for allied defense.

(c) Report on Study.—The Secretary of Defense shall submit to Congress a report containing the results of such study not later than February 15, 1986.

TITLE III—OPERATION AND MAINTENANCE

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SEC. 305. AUTHORIZATION OF APPROPRIATIONS FOR TRANSPORTATION OF HUMANITARIAN RELIEF SUPPLIES TO AFGHAN REFUGEES

(a) AUTHORIZATION OF FUNDS.—(1) There is hereby authorized to be appropriated to the Department of Defense for fiscal year 1986 the sum of $10,000,000 and for fiscal year 1987 the sum of $10,000,000 for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. [3]

(2) [4] Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99–190; 99 Stat. 1189), for operation and maintenance for the Air Force, $7,000,000 shall remain available for obligation until September 30, 1987, for the purpose described in paragraph (1) (including providing transportation of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code). Such funds shall be in addition to funds appropriated pursuant to the authorization in paragraph (1).

(b) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in this section shall be under the direction of the Secretary of State.

(c) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in this section shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(d) [4] AUTHORIZATION TO TRANSFER FUNDS.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section for fiscal year 1987 to provide for (1) paying administrative costs of providing the transportation described in subsection (a), and (2) providing for the acquisition of transportation assets for the distribution of supplies outside the United States to accomplish the purposes of this section.

(e) [4] AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriation Acts.

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TITLE X—MATTERS RELATING TO ARMS CONTROL [5]

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[3] Sec. 331(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3816) added the phrase "and for fiscal year 1987 the sum of $10,000,000".

[4] This subsection was added by sec. 331(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661, 100 Stat. 3816).

[5] For text, see vol. II, sec. F.

TITLE XI—MATTERS RELATING TO NATO

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SEC. 1103.[6] NATO COOPERATIVE RESEARCH AND DEVELOPMENT

(a) FINDINGS.—The Congress hereby finds—

(1) that for more than a decade the member nations of the North Atlantic Treaty Organization (NATO) have provided in the aggregate significantly larger resources for defense purposes than have the member nations of the Warsaw Treaty Organization;

(2) that, despite this fact, the Warsaw Treaty Organization member nations have produced and deployed many more major combat items such as tanks, armored personnel carriers, artillery pieces and rocket launchers, armed helicopters, and tactical combat aircraft than have the member nations of NATO; and

(3) that a major reason for this discouraging performance by NATO is inadequate cooperation among NATO nations in research, development, and production of military end-items of equipment and munitions.

(b) CONGRESSIONAL REQUEST FOR COOPERATION ON R&D.—The Congress, therefore, urges and requests the President, the Secretary of Defense, and the United States Representatives to the North Atlantic Treaty Organization to pursue diligently opportunities for member nations of NATO to cooperate—

(1) in research and development on defense equipment and munitions; and

(2) in the production of defense equipment, including—

(A) coproduction of conventional defense equipment by the United States and other member nations of NATO; and

(B) production by United States contractors of conventional defense equipment designed and developed by other member nations of NATO.

(c) FUNDS FOR COOPERATIVE PROJECTS.—(1) Of the funds appropriated pursuant to the authorizations in section 201(a) $200,000,000 shall be available, in equal amounts, to the Army, Navy, Air Force, and Defense Agencies only for NATO cooperative research and development projects as provided in this section.

(2) As used in this section, the term "cooperative research and development project" means a project involving joint participation by the United States and one or more member nations of NATO under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

(A) to develop new conventional defense equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

(d) RESTRICTIONS.—(1) A memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project may not be entered into unless the Secretary of Defense determines that the proposed project enhances the ongoing multinational effort to improve NATO's conventional defense capabilities through the application of emerging technology.

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[6] 10 U.S.C. 2407 note.

(2) The Secretary may not delegate the authority to make a determination under paragraph (1) except to the Deputy Secretary of Defense or the Under Secretary of Defense for Research and Engineering.

(e) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—In order to assure substantial participation on the part of other member nations of NATO in approved cooperative research and development projects, funds made available under subsection (c) for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

(f) COOPERATIVE OPPORTUNITIES DOCUMENT.—(1)(A) In order to ensure that opportunities to conduct cooperative research and development projects are considered during the early decision points in the Department of Defense's formal development review process in connection with any planned project of the Department of Defense, the Under Secretary of Defense for Research and Engineering shall prepare a formal arms cooperation opportunities document for review by the Defense Systems Acquisition Review Council at its formal meetings.

(B) The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a Justification of Major Systems New Start document is prepared.

(2) The formal arms cooperation opportunities document referred to in paragraph (1) shall include the following:

(A) A statement indicating whether or not a project similar to the one under consideration by the Department of Defense is in development or production by one or more of the other NATO member nations.

(B) If a project similar to the one under consideration by the Department of Defense is in development by one or more other member nations of NATO, an assessment by the Under Secretary of Defense for Research and Engineering as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project of the United States under consideration by the Department of Defense.

(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more other NATO member nations.

(D) The recommendation of the Under Secretary of Defense for Research and Engineering as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more other member nations of NATO.

(g) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

(A) that the Department of Defense should perform more side-by-side testing of conventional defense equipment manufactured by the United States and other member nations of NATO; and

(B) that such testing should be conducted at the late stage of the development process when there is usually only a single United States prime contractor.

(2) In addition to any funds appropriated for activities of the Director of Defense Test and Evaluation pursuant to section 201(a), $50,000,000 shall be available to the Director, from any other funds appropriated to the Department of Defense for fiscal year 1986, for the acquisition of items of the type specified in paragraph (3) manufactured by other member nations of NATO for side-by-side comparison testing with comparable items of United States manufacture.

(3) Items that may be acquired by the Director of Defense Test and Evaluation under paragraph (2) include the following:

(A) Submunitions and dispensers.
(B) Anti-tank and anti-armor guided missiles.
(C) Mines, for both land and naval warfare.
(D) Runway-cratering devices.
(E) Torpedoes.
(F) Mortar systems.
(G) Light armored vehicles and major subsystems thereof.
(H) Utility vehicles.
(I) High-velocity anti-tank guns.
(J) Short-Range Air Defense Systems (SHORADS).
(K) Mobile air defense systems and components.

(4) The Director of Defense Test and Evaluation shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of his intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated.

(5) Not later than February 1 of each year, the Director of Defense Test and Evaluation shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report—

(A) on the systems, subsystems, and munitions produced by other member nations of NATO that were evaluated during the previous fiscal year by the Director; and

(B) on the obligation of any funds under this subsection during the previous fiscal year.

(h) SECRETARY TO ENCOURAGE SIMILAR NATO PROGRAMS.—The Secretary of Defense shall encourage other member nations of NATO to establish programs similar to the one provided for in this section.

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TITLE XIV—GENERAL PROVISIONS

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SEC 1411.[7] CONDITIONS OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

(a) LIMITATION ON FISCAL YEAR 1986 FUNDS.—Funds appropriated pursuant to authorizations of appropriations in title I may not be used—

(1) for procurement or assembly of binary chemical munitions (or components of such munitions); or

(2) for establishment of production facilities necessary for procurement or assembly of binary chemical munitions (or components of such munitions), except in accordance with subsections (b), (c), (d), and (e).

(b) NATO CONSULTATION.—Subject to subsections (c), (d), and (e), funds referred to in subsection (a) may be used for procurement or assembly of binary chemical munitions or for the establishment of production facilities necessary for the procurement or assembly of binary chemical munitions (or components of such munitions) if the President certifies to Congress that the United States—

(1) has submitted to the North Atlantic Treaty Organization, a force goal stating the requirement for modernization of the United States proportional share of the NATO chemical deterrent with binary munitions and said force goal has been formally adopted by the North Atlantic Council;

(2) has developed in coordination with the Supreme Allied Commander, Europe, a plan under which United States binary chemical munitions can be deployed under appropriate contingency plans to deter chemical weapons attacks against the United States and its allies; and

(3) has consulted with other member nations of the North Atlantic Treaty Organization (NATO) on that plan.

(c) CONDITIONS FOR FINAL ASSEMBLY.—Funds referred to in subsection (a) may not be used for the final assembly of complete binary chemical munitions before October 1, 1987, and, subject to subsections (d) and (e), may only be used for such purpose on or after that date if—

(1) a mutually verifiable international agreement concerning binary and other similar chemical munitions has not been entered into by the United States by that date;

(2)[8] the President, after that date, transmits to Congress a certification that—

(A) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(B) handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(C) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

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[7] Sec. 1411 was amended and restated by Sec. 8093 of the further Continuing Appropriations, 1986 (Public Law 99-190, 99 Stat. 1217).

[8] The President transmitted to the Congress certification with respect to the 155mm Binary Chemical Artillery Projectile, on October 16, 1987, as printed in House Document 100-118, October 19, 1987.

(D) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 (which shall, if not sooner transmitted to Congress, accompany such certification) is ready to be implemented;

(3) final assembly is carried out only after the end of the 60-day period beginning on the date such certification is received by the Congress;

(4) the plan of the Secretary of Defense for land-based storage of such munitions within the United States during peacetime provides that the two components that constitute a binary chemical munition are to be stored in separate States; and

(5) the plan of the Secretary of Defense for the transportation of such munitions within the United States during peacetime provides that the two components that constitute a binary munition are transported separately.

(d) RESTRICTIONS ON PRODUCTION OF THE BIGEYE BOMB.—Except as provided below, none of the funds appropriated pursuant to authorizations of appropriations in title I may be used for procurement or assembly of the BIGEYE binary chemical bomb or for procurement of components for the BIGEYE bomb until 60 days after the Secretary of Defense has submitted a report describing—

(1) the specific operational requirements which must be achieved by the BIGEYE system; and

(2) the actual performance of the system during operational testing with respect to each of the operational test criteria; and

(3) any exceptions to the operational criteria deemed acceptable by the Department of Defense.

Subject to subsection (b) nothing in this subsection will prohibit the procurement of BIGEYE production facilities and associated equipment.

(e) RESTRICTION ON PRODUCTION OF THE GB-2 ARTILLERY PROJECTILE.—None of the funds appropriated pursuant to authorizations in title I for procurement or assembly of the GB-2 artillery projectile may be obligated or expended before October 1, 1986.

(f) SENSE OF CONGRESS.—It is the sense of Congress that existing unitary chemical munitions currently stored in the United States and in European member nations of NATO should be replaced by modern, safer binary chemical munitions.

(g) REPORT.—Not later than October 1, 1986, the President shall submit to Congress a report describing the results of consultations among NATO member nations concerning the organization's chemical deterrent posture. The report shall include descriptions of any consultations concerning—

(1) efforts to provide key civilian workers at military support facilities in Europe—

(A) with personal and collective equipment to protect against the use of chemical munitions; and

(B) with the training required for the use of such equipment;

(2) efforts to upgrade the chemical reconnaissance, decontamination, and protective capabilities of the military forces of each NATO member nation to a level adequate to meet the chemical threat identified in NATO intelligence estimates;

(3) efforts to initiate a NATO-wide study of measures required to protect ports, airfields, logistics centers, and command and control facilities in European member nations of NATO against chemical attack; and

(4) efforts to initiate a NATO-wide study of equitable and efficient sharing among NATO member nations of responsibilities with regard to deterring the use of chemical munitions in Europe.

SEC. 1412.[9] DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS

(a) IN GENERAL.—(1) Notwithstanding any other provision of law, the Secretary of Defense (hereinafter in this section referred to as the "Secretary") shall, in accordance with the provisions of this section, carry out the destruction of the United States' stockpile of lethal chemical agents and munitions that exists on the date of the enactment of this Act.

(2) Such destruction shall be carried out in conjunction with the acquisition of binary chemical weapons for use by the Armed Forces.

(b) DATE FOR COMPLETION.—(1) Except as provided by paragraphs (2) and (3), the destruction of such stockpile shall be completed by September 30, 1994.

(2) If a treaty banning the possession of chemical agents and munitions is ratified by the United States, the date for completing the destruction of the United States' stockpile of such agents and munitions shall be the date established by such treaty.

(3)(A) In the event of a declaration of war by the Congress or of a national emergency by the President or the Congress or if the Secretary of Defense determines that there has been a significant delay in the acquisition of an adequate number of binary chemical weapons to meet the requirements of the Armed Forces (as defined by the Joint Chiefs of Staff as of September 30, 1985), the Secretary may defer, beyond September 30, 1994, the destruction of not more than 10 percent of the stockpile described in subsection (a)(1).

(B) The Secretary shall transmit written notice to the Congress of any deferral made under subparagraph (A) within 30 days after the date on which the determination to defer is made or by August 31, 1994, whichever is earlier.

(c) ENVIRONMENTAL PROTECTION AND USE OF FACILITIES.—(1) In carrying out the requirement of subsection (a)(1), the Secretary shall provide for—

(A) maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a); and

(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions.

(2) Facilities constructed to carry out this section may not be used for any purpose other than the destruction of lethal chemical weapons and munitions, and when no longer needed to carry out

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[9] 50 U.S.C. 1521.

this section, such facilities shall be cleaned, dismantled, and disposed of in accordance with applicable laws and regulations.

(d) Plan.—(1) The Secretary shall develop a comprehensive plan to carry out this section.

(2) In developing such plan, the Secretary shall consult with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency.

(3) The Secretary shall transmit a copy of such plan to the Congress not later than March 15, 1986.

(4) Such plan shall provide—

(A) an evaluation of the comparison of onsite destruction, regional destruction centers, and a national destruction site both inside and outside of the United States;

(B) for technological advances in techniques used to destroy chemical munitions;

(C) for the maintenance of a permanent, written record of the destruction of lethal chemical agents and munitions carried out under this section; and

(D) a description of—

(i) the methods and facilities to be used in the destruction of agents and munitions under this section;

(ii) the schedule for carrying out this section; and

(iii) the management organization established under subsection (e).

(e) Management Organizations.—In carrying out this section, the Secretary shall provide for the establishment, not later than May 1, 1986, of a management organization within the Department of the Army.

(2) Such organization shall be responsible for management of the destruction of agents and munitions under this section.

(3) The Secretary shall designate a general officer as the director of the management organization established under paragraph (1). Such officer shall have—

(A) experience in the acquisition, storage, and destruction of chemical agents and munitions;

(B) training in chemical warfare defense operations; and

(C) outstanding qualifications regarding safety in handling chemical agents and munitions.

(f) Identification of Funds.—Funds for carrying out this section shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department. Funds for military construction projects necessary to carry out this section may be set out in the annual military construction budget separately from other funds for such project.

(g) Annual Report.—(1) Except as provided by paragraph (4), the Secretary shall transmit, by December 15 of each year, a report to the Congress on the activities carried out under this section during the fiscal year ending on September 30 of the calendar year in which the report is to be made.

(2) The first such report shall be transmitted by December 15, 1985, and shall contain—

(A) an accounting of the United States' stockpile of lethal chemical agents and munitions on the date of the enactment of this Act; and

(B) a schedule of the activities planned to be carried out under this section during fiscal year 1986.

(3) Each report other than the first one shall contain—

(A) a site-by-site description of the construction, equipment, operation, and dismantling of facilities (during the fiscal year for which the report is made) used to carry out the destruction of agents and munitions under this section, including any accidents or other unplanned occurrences associated with such construction and operation; and

(B) an accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—

(i) the construction of and equipment for facilities used for the destruction of agents and munitions;

(ii) the operation of such facilities;

(iii) the dismantling or other closure of such facilities;

(iv) research and development; and

(v) program management.

(4) The Secretary shall transmit the final report under this subsection not later than 120 days following the completion of activities under this section.

(h) PROHIBITION ON ACQUIRING CERTAIN LETHAL CHEMICAL AGENTS AND MUNITIONS.—(1) Except as provided in paragraph (2), no agency of the Federal Government may, after the date of the enactment of this Act, develop or acquire lethal chemical agents or munitions other than binary chemical weapons.

(2)(A) The Secretary of Defense may acquire any chemical agent or munition at any time for purposes of intelligence analysis.

(B) Chemical agents and munitions may be acquired for research, development, test, and evaluation purposes at any time, but only in quantities needed for such purposes and not in production quantities.

(i) REAFFIRMATION OF UNITED STATES POSITION ON FIRST USE OF CHEMICAL AGENTS AND MUNITIONS.—It is the sense of Congress that the President should publicly reaffirm the position of the United States as set out in the Geneva Protocol of 1925, which the United States ratified with reservations in 1975.

(j) DEFINITIONS.—For purposes of this section:

(1) The term "chemical agent and munition" means an agent or munition that, through its chemical properties, produces lethal or other damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

(2) The term "lethal chemical agent and munition" means a chemical agent or munition that is designed to cause death, through its chemical properties, to human beings in field concentrations.

(3) The term "destruction" means, with respect to chemical munitions or agents—

(A) the demolishment of such munitions or agents by incineration or by any other means; or

(B) the dismantling or other disposal of such munitions or agents so as to make them useless for military purposes and harmless to human beings under normal circumstances.

(k) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 1985.

SEC. 1413. REPORT CONCERNING THE TESTING OF CHEMICAL WARFARE AGENTS

The Secretary of Defense shall, within 90 days after the date of enactment of this Act, transmit a report to the Committees on Armed Services of the Senate and House of Representatives describing the following matters concerning the testing of diluted or undiluted chemical warfare agents:

(1) The criteria and process used for selecting sites for such testing.

(2) The nature and extent of any consultation carried out with State and local officials before the site for such testing is selected.

(3) The consideration that is given to the proximity of residential dwelling units, schools, child care centers, nursing homes, hospitals, or other health care facilities to the testing site.

(4) Whether an environmental impact statement should be required prior to the approval of a contract for such testing.

(5) Any costs that may have to be incurred by the Federal Government to assist companies that carry out such testing to relocate to more isolated areas.

(6) The degree to which the Secretary estimates that such testing will increase or decrease.

(7) Any recurring problems associated with such testing or the site selection process for such testing.

(8) Any changes in site selection process that are to be implemented by the Secretary or for which legislative action is necessary.

PART C—DRUG INTERDICTION, LAW ENFORCEMENT, AND OTHER SPECIFIC PROGRAMS

SEC. 1421. [10] ENHANCED DRUG-INTERDICTION ASSISTANCE

(a) MANDATORY ASSIGNMENT OF COAST GUARD PERSONNEL ON NAVAL VESSELS.—The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board each surface naval vessel at sea in a drug-interdiction area at least one member of the Coast Guard who is trained in law enforcement and has power to arrest, search, and seize property and persons suspected of violations of law.

(b) LAW ENFORCEMENT FUNCTIONS.—Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

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[10] 14 U.S.C. 89 note.

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) AUTHORIZATION OF NECESSARY COAST GUARD PERSONNEL; FUNDING.—(1) The active-duty military strength level for the Coast Guard for fiscal year 1986 is increased by 500. Additional members of the Coast Guard who are on active duty by reason of this subsection shall be assigned to duty as provided in subsection (a).

(2) Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1986, the sum of $15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for the additional personnel authorized by paragraph (1).

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "drug-interdiction area" means an area outside the land area of the United States in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

(2) The term "active-duty military strength level for the Coast Guard for fiscal year 1986" means the full-time equivalent strength level for active- duty military personnel of the Coast Guard for fiscal year 1986 required to be maintained by section 3 of the Coast Guard Authorization Act of 1984 (Public Law 98-557; 98 Stat. 2860).

SEC. 1422. ESTABLISHMENT, OPERATION, AND MAINTENANCE OF DRUG LAW ENFORCEMENT ASSISTANCE ORGANIZATIONS OF THE DEPARTMENT OF DEFENSE

(a) AUTHORIZATION OF FUNDS FOR ELEMENTS ASSISTING CIVILIAN DRUG INTERDICTION.—(1) There are authorized to be appropriated to the Department of Defense for fiscal year 1986 such sums as may be necessary for the establishment, operation, and maintenance of airborne surveillance, detection, and interdiction units in the Department of Defense.

(2) There are authorized to be appropriated to the Department of Defense for fiscal year 1986 such sums as may be necessary for the operation and maintenance of the Directorate of the Department of Defense Task Force on Drug Law Enforcement.

(b) COMMAND, CONTROL, AND COORDINATION.—A special operations headquarters element shall provide necessary command, control, and coordination of appropriate active or Reserve Component special operations forces, combat rescue units, and other units for participation by such forces and units in drug law-enforcement assistance missions.

(c) REPORT ON PLANS TO ENHANCE COOPERATION WITH CIVILIAN DRUG ENFORCEMENT AGENCIES.—Not later than December 1, 1985, the Secretary of Defense shall submit to the committees on Armed Services of the Senate and the House of Representatives a report on the manner in which the Department of Defense plans to obligate and expend funds appropriated or expected to be appropriated pursuant to the authorizations contained in this section. The report shall include a description of—

(1) actions or proposed actions to establish, operate, and maintain reserve component forces, airborne surveillance, detection, and interdiction units, including—

(A) actions or proposed actions to consolidate or establish, in a Special Operations Wing of the Air Force (reserve or active component), command, control, and coordination of Air Force Special Operations aircraft (including aircraft assigned to the Special Operations Wing of the Regular Air Force on or before March 1, 1985); and

(B) in the case of any such aircraft which are not to remain assigned to a Special Operation Wing of the Air Force, the disposition or planned disposition of those aircraft;

(2) actions and proposed actions to use rotary-wing and fixed-wing aircraft of the Department of Defense as well as other measures necessary to furnish (commensurate with military readiness and the provisions of chapter 18 of title 10, United States Code) optimal support to civilian law enforcement agencies; and

(3) actions and proposed actions to promote dual use between the reserve component forces and civilian law enforcement agencies of the Department of Defense aircraft and other Department of Defense resources made available to civilian law enforcement agencies for the purpose of carrying out drug interdiction missions.

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SEC. 1424. STUDY ON THE USE OF THE E-2 AIRCRAFT FOR DRUG INTERDICTION PURPOSES

(a) STUDY BY SECRETARY OF THE NAVY.—The Secretary of the Navy shall conduct a test of the use of E-2 aircraft of the Navy to determine the effectiveness of that aircraft in drug interdiction. The study shall be conducted along the border between the United States and Mexico and shall be carried out over a period of 6 months.

(b) COLLECTION OF DATA.—As part of the test, the Secretary shall collect data on the contribution on the use of the E-2 aircraft to the apprehension of drug smugglers. This data shall include the number of intercepts which resulted in apprehensions.

(c) REPORT.—Not later than September 30, 1986, the Secretary shall submit to Congress a report on the results of the study.

SEC. 1425. STRATEGIC BOMBER PROGRAMS

(a) SENSE OF CONGRESS REGARDING THE ADVANCED TECHNOLOGY BOMBER AND THE ADVANCED CRUISE MISSILE.—It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber program and the Advanced Cruise Missile program are a critical national security asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the

Soviet Union and as a consequence enhance the deterrent posture of the United States;

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) Prohibition on Use of Funds for ATB and ACM for Any Other Purpose.—None of the funds appropriated pursuant to an authorization of appropriations in this Act to carry out the Advanced Technology Bomber program or the Advanced Cruise Missile program may be used for any other purpose.

(c) Sense of Congress on B-1B Bomber Program.—It is the sense of Congress that, consistent with the stated policy of the Department of Defense, the B-1B bomber aircraft procurement program should be terminated after acquisition under such program of 100 aircraft.

(d) Limitation on Number of B-1B Aircraft To Be Procured.—None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended for the conduct of research, design, demonstration, development, or procurement of more than 100 B-1B bomber aircraft (including any derivative or modified version of such aircraft).

SEC. 1426. RESTRICTIONS ON CERTAIN NUCLEAR PROGRAMS

(a) Restriction on Funding for MX Missile Warhead.—None of the funds appropriated pursuant to an authorization provided in this or any other Act may be obligated or expended for the production of W-87 warheads for the MX missile program in excess of the numbers of warheads required to arm the number of such missiles authorized by the Congress to be deployed and determined by the President to be necessary for quality assurance and reliability testing.

(b) Employment of the Standard Missile (SM-2(N)).—Except for the studies and report required by this section, none of the funds authorized to be appropriated by this Act may be expended for research, development, test, or procurement associated with a nuclear variant of the Standard Missile (SM-2(N)) or any associated nuclear warhead until 30 calendar days after the Secretary of the Navy submits to the Committees on Armed Services of the Senate and House of Representatives a report which includes the following information:

((1) A description of the circumstances under which the SM-2(N) would be used and an assessment of likely enemy response (including countermeasures).

(2) A description of the release procedures and circumstances under which release would be authorized for employment of the SM-2(N).

(3) An analysis of conventional alternatives to the SM-2(N), including any necessary modification to the SM-2 or alternative to the Standard Missile or warhead, and the associated costs of those alternatives.

(4) A summary of all studies previously conducted analyzing the impact of the use of nuclear naval surface-to-air missiles on our own vessels and electronics.

(5) A list of all United States ships which may receive the SM-2(N).

(6) The number of additional conventional armed missiles which could be carried by United States ships if the SM-2(N) were not deployed and the impact on fleet air defense from that reduced conventional load.

(7) Any plans or programs for the development of a nuclear naval surface- to-air or air-to-air missile for fleet defense other than the SM-2(N).

(c) REPORT ON REQUIREMENTS FOR SPECIAL NUCLEAR MATERIALS.—(1) Not later than March 1, 1986, the Secretary of Defense and the Secretary of Energy, after consultation with the Joint Chiefs of Staff and the Director of the Arms Control and Disarmament Agency, shall submit a report to the Committees on Armed Services of the Senate and House of Representatives detailing the military requirements for special nuclear materials through fiscal year 1991. The report shall include findings and recommendations concerning—

(A) requirements for production of plutonium, highly enriched uranium, and other special nuclear materials; and

(B) the recovery of special nuclear materials for military uses that have been transferred from military uses to civilian research and development uses.

(2) The report should also—

(A) address the availability of special nuclear materials to be derived from the retirement of existing nuclear weapons;

(B) address the feasibility of meeting military needs for special nuclear materials through the blending of high grade and low grade materials stocks;

(C) assess the impact of new materials separation, purification, and production technologies on nuclear proliferation; and

(D) contain the views of the Joint Chiefs of Staff and the Director of the Arms Control and Disarmament Agency.

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PART E—MISCELLANEOUS PROVISIONS

SEC. 1451.[11] SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

It is the sense of Congress that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

SEC. 1452. SENSE OF CONGRESS CONCERNING PROTECTION OF UNITED STATES MILITARY PERSONNEL AGAINST TERRORISM

(a) FINDING.—The Congress finds that the protection of members of the Armed Forces against terrorist activity is among the highest national security concerns of the United States.

(b) SENSE OF CONGRESS.—Therefore, it is the sense of Congress that—

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[11] Other legislation on Nicaragua may be found at page 618.

(1) the President should be supported in the vigorous exercise of his powers as Commander-in-Chief to protect members of the Armed Forces against terrorist activity; and

(2) such exercise of power should include the use of such measures as may be appropriate and consistent with law.

SEC. 1453. READINESS OF SPECIAL OPERATIONS FORCES

(a) Congressional Findings.—The Congress finds that—

(1) the first duty of the Government is to provide for the common defense, including safeguarding the peace, safety, and security of the citizens of the United States;

(2) the incidence of terrorist, guerrilla, and other violent threats to citizens and property of the United States has rapidly increased;

(3) the special operations forces of the Armed Forces provide the United States with immediate and primary capability to respond to terrorism; and

(4) the special operations forces are the military mainstay of the United States for the purposes of nation-building and training friendly foreign forces in order to preclude deployment or combat involving the conventional or strategic forces of the United States.

(b) Sense of the Congress.—In view of the findings in subsection (a), it is the sense of the Congress that—

(1) the revitalization of the capability of the special operations forces of the Armed Forces should be pursued as a matter of the highest priority;

(2) personnel and other resources allocations should reflect the priority referred to in paragraph (1);

(3) the political and military sensitivity and the importance to national security of the special operations forces require that the Office of the Secretary of Defense should improve its management supervision of such forces in all aspects of the special operations mission area;

(4) the joint command and control of the special operations forces must permit direct and immediate access by the President and Secretary of Defense; and

(5) the commanders-in-chief of the unified commands should have available, within their operational areas of responsibility, sufficient special operations assets to execute the operations plans for which they are responsible or to support additional contingency operations directed from the national level.

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h. Department of Defense Authorization Act, 1985

Partial Text of Public Law 98–525 [H.R. 5167], 98 Stat. 2492, Approved October 19, 1984 as amended by Public Law 99–145 [Department of Defense Authorization Act, 1986; S. 1160], 99 Stat. 619, Public Law 99–661 [National Defense Authorization Act for Fiscal Year 1987, S. 2368] 100 Stat. 3816, approved November 14, 1986; and by Public Law 100–456 [National Defense Authorization Act, Fiscal Year 1989; H.R. 4481], 102 Stat. 1918, approved September 29, 1988

AN ACT To authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—PROCUREMENT

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AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN NATO COOPERATIVE PROGRAMS

Sec. 105. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for activities of the Under Secretary of Defense for Research and Engineering for acquisition in connection with cooperative programs of the North Atlantic Treaty Organization as follows:

For acquisition of the Patriot missile system for the Federal Republic of Germany, $150,000,000.

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, $65,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, $15,000,000.

For acquisition of point air defense for ground-launched cruise missile bases in Europe, $10,000,000.

For acquisition of point air defense of United States airbases in Turkey, $10,000,000.

(b) None of the amounts appropriated pursuant to the authorizations in subsection (a) may be obligated—

(1) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a copy of each government-to-government agreement relating to that program; or

(2) for acquisitions in connection with a NATO cooperative program in which the financial obligations of the United

States exceed the collective financial obligations of European countries in connection with such program.

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LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER ARMS EXPORT CONTROL ACT

Sec. 107.[1] The authority of the President under section 21(e)(2) of the Arms Export Control Act may be exercised without regard to the limitation imposed by section 762A of the Department of Defense Appropriations Act, 1984 (Public Law 98–212).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

Sec. 108.[1] The Arms Export Control Act shall be administered as if section 743A of the Department of Defense Appropriation Act, 1984 (Public Law 98–212; 96 Stat. 1858) had not been enacted into law.

TRANSFER OF CERTAIN MILITARY EQUIPMENT OR DATA TO FOREIGN COUNTRIES

Sec. 109.[2] Section 765(c) of the Department of Defense Appropriation Act, 1984 (Public Law 98–212), is hereby repealed.

POLICY CONCERNING ACQUISITION OF ADDITIONAL MX MISSILES

Sec. 110. (a) Subject to subsections (b) and (c), of the funds appropriated pursuant to the authorization of appropriations in section 103 for procurement of missiles for the Air Force, $2,500,000,000 may be used for the MX missile program, including acquisition of not more than 21 additional operational MX missiles.

(b) Except as provided in subsection (c), none of the $2,500,000,000 described in subsection (a) may be obligated for the procurement of additional operational MX missiles unless—

(a) after March 1, 1985, the President submits to Congress a report described in subsection (e);

(2) a joint resolution approving the obligation of those funds is enacted as provided for in this section; and

(3) a second joint resolution is enacted as provided for in the Department of Defense Appropriation Act, 1985 (or in a joint resolution providing funds for the Department of Defense for fiscal year 1985), further approving the obligation of those funds.

(c) Of the $2,500,000,000 described in subsection (a), $1,000,000,000 may be obligated only for—

(1) procurement related to the deployment of the 21 MX missiles for which funds were authorized and appropriated for fiscal year 1984;

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[1] Although secs. 107 and 108 lifted these restrictions concerning certain provisions of the Arms Export Control Act as they applied during fiscal year 1984, similar restrictions were reenacted as secs. 8036 and 8055 of the Department of Defense Appropriation Act, 1986.

[2] Sec. 765(c) had prohibited the use of funds provided in Public Law 98–212 to sell or otherwise provide the AN/SQR–19 Towed Array Sonar to any foreign country.

(2) advance procurement of parts and materials for the MX missile program and for the maintenance of the MX missile program contractor base; and

(3) spare parts for the MX missile program.

(d)(1) For the purpose of subsection (b)(2), "joint resolution" means only a joint resolution introduced after the date on which the report of the President under subsection (b)(1) is received by Congress the matter after the resolving clause of which is as follows: "That subject to the enactment (after the enactment of this joint resolution) of a joint resolution further approving the obligation of such funds, the Congress approves the obligation of funds appropriated for fiscal year 1985 for the procurement of additional operational MX missiles (in addition to the funds previously authorized to be obligated)."

(2) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(3) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a joint resolution approving the further obligation of funds for the procurement of operational MX missiles as provided for in the Department of Defense Appropriation Act, 1985 (or in a joint resolution providing funds for the Department of Defense for fiscal year 1985), whichever is earlier, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(6) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supercedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) A report under subsection (b)(1) shall include—

(1) a statement that the President has determined that further acquisition of operational missiles under the MX missile program is in the national security interest of the United States and is consistent with United States arms control policy;

(2) findings of the President concerning the effect of the acquisition and deployment of such missiles on the vulnerability of the United States land-based intercontinental ballistic missile force;

(3) a discussion of the basing mode for the MX missile (and related improvements in silo-hardening technology) and of proposals for the basing mode for the small, single-warhead intercontinental ballistic missile; and

(4) to the extent not covered under paragraphs (1) through (3), the assessment of the President submitted pursuant to subsection (g)(2).

(f) Obligation for the MX missile program of funds appropriated for fiscal year 1985 is subject to section 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 693).

(g)(1) Section 1231(e) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 694) is amended—

(A) by striking out "the Committee on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Congress";

(B) by striking out "the date of the enactment of this Act" and inserting in lieu thereof "September 24, 1983,";

(C) by striking out "and" at the end of clause (B);

(D) by striking out the period at the end of clause (C) and inserting in lieu thereof "; and"; and

(E) by adding at the end thereof the following new clause:

"(D) the progress of efforts to develop more survivable basing modes for the MX and other intercontinental missiles, including a new small mobile intercontinental ballistic missile.".

(2) The first assessment under section 1231(e) of the Department of Defense Authorization Act, 1985, submitted after the date of the enactment of this Act shall be submitted as part of the report described in subsection (e) (rather than coincident with any request for funds for the procurement of MX missiles submitted to Congress before the submission of that report).

PROHIBITION OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

Sec. 111. None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for procurement of binary chemical munitions, including advanced procurement of long-lead components or for the establishment of a production base for such munitions.

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FOREIGN MILITARY SALES OF AIR NATIONAL GUARD OA-37 AIRCRAFT

Sec. 113. It is the sense of Congress—

(1) that the Air Force should, at the earliest practicable date, provide modern replacement aircraft for those Air National Guard units currently using OA-37 Dragonfly aircraft in order to fulfill Forward Air Controller (FAC) mission of the Air National Guard; and

(2) that the United States should not sell or otherwise provide to any foreign country any OA-37 aircraft currently assigned to an Air National Guard unit unless the unit to which such aircraft is assigned is in the process of converting to the use of a more modern aircraft or unless the OA-37 aircraft to be sold or otherwise provided to a foreign country has been replaced with an OA-37 from the stocks of the Air Force.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

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POLICY GOVERNING THE TEST OF ANTI-SATELLITE WARHEADS

Sec. 205. * * * [3]

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TITLE III—OPERATION AND MAINTENANCE

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SALE OF ARTICLES MANUFACTURED BY CERTAIN ARSENALS; ASSET CAPITALIZATION PROGRAM

Sec. 305. * * * [4]

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SENSE OF CONGRESS CONCERNING INTRODUCTION OF UNITED STATES ARMED FORCES INTO CENTRAL AMERICA FOR COMBAT

Sec. 310.[5] (a) The Congress makes the following findings:

(1) The President has stated that there is no need to introduce United States Armed Forces into Central America for combat and that he has no intention of doing so.

(2) The President of El Salvador has stated that there is no need for United States Armed Forces to conduct combat operations in El Salvador and that he has no intention of asking that they do so.

(3) The possibility of the introduction of United States Armed Forces into Central America for combat raises very grave concern in the Congress and the American people.

(b) It is the sense of Congress that—

(1) United States Armed Forces should not be introduced into or over the countries of Central America for combat; and

(2) if circumstances change from those present on the date of the enactment of this Act and the President believes that those changed circumstances require the introduction of United States Armed Forces into or over a country of Central America for combat, the President should consult with Congress before any decision to so introduce United States Armed Forces and any such introduction of United States Armed Forces must comply with the War Powers Resolution.

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TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

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PERSONAL VEHICLES OF UNITED STATES MILITARY PERSONNEL IN JAPAN

Sec. 653. (a) The Congress finds that—

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[3] Sec. 205 amended sec. 1235 of the Department of Defense Authorization Act, 1984. For text, see page 914.

[4] Sec. 305 added a new sec. 2208(i) to title 10, United States Code, concerning the sale of articles manufactured by certain arsenals. For text, see page 785.

[5] 50 U.S.C. 1541 note.

(1) the Government of Japan does not permit members of the Armed Forces of the United States to take their motor vehicles into Japan for their personal use while assigned to a duty station in Japan unless such vehicles are modified to satisfy certain requirements of the Government of Japan;

(2) as a result of the restriction referred to in clause (1), members of the Armed Forces typically need to sell their personal motor vehicles before departing the United States to report to a duty station in Japan, to purchase vehicles in Japan for personal use while stationed in Japan, to sell such purchased vehicles before departing Japan to return to the United States, and to purchase vehicles in the United States upon their return;

(3) members of the Armed Forces incur a substantial financial burden in connection with the repeated sale and replacement of personal vehicles;

(4) the United States permits members of the Armed Forces of foreign nations to bring unmodified vehicles into the United States for their personal use while assigned to duty stations in the United States; and

(5) the United States provides a substantial contribution to the defense of Japan and the waters surrounding Japan.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President, acting through the Secretary of Defense and the Secretary of State, should enter into negotiations with the Government of Japan for the purpose of obtaining the agreement of such government not to require the modification of the personal motor vehicles of members of the Armed Forces of the United States brought into Japan for the personal use while stationed in Japan.

(c) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall transmit to the Congress a written report relating to the matters described in subsection (a). The report shall include—

(1) a description of any negotiations carried out with the Government of Japan; and

(2) a description of the other actions the Government of the United States can reasonably take to obtain an agreement described in subsection (b).

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TITLE X—MATTERS RELATING TO NATO AND OTHER ALLIES

SENSE OF CONGRESS RELATING TO INCREASE IN DEFENSE SPENDING BY UNITED STATES ALLIES

Sec. 1001.[6] It is the sense of Congress that the President—

(1) should call on the pertinent member nations of the North Atlantic Treaty Organization to meet or exceed their pledges for an annual increase in defense spending during fiscal years 1984 and 1985 of at least 3 percent real growth; and

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[6] 22 U.S.C. 1928 note.

(2) should call on Japan to further increase its defense spending during fiscal years 1984 and 1985;

in furtherance of increased unity; equitable sharing of the common defense burden, and international stability.

IMPROVEMENTS TO NATO CONVENTIONAL CAPABILITY

Sec. 1002.[6] (a) The Congress finds—

(1) that the North Atlantic Treaty Organization (NATO) should improve its conventional defense capability so as to lengthen the period of time that Western Europe can be defended by conventional forces without the necessity of resorting to the early use of nuclear weapons in the event of a nonnuclear attack on any NATO member country;

(2) that fulfillment by NATO member nations of their goals and commitments to increase defense spending, improve conventional sustainability, and provide support facilities in Western Europe for rapid reinforcements from the United States is crucial to accomplishing that objective; and

(3) that an increase over current United States military personnel levels in European member nations of NATO can be justified only if these goals and commitments are substantially met by NATO member nations (other than the United States).

(b) The Congress urges the President and the Secretary of Defense to continue to encourage member nations of NATO (other than the United States) to work expeditiously to fulfill the following commitments they have undertaken:

(1) To achieve and maintain an annual increase in their defense spending of at least 3 percent after inflation.

(2) To acquire a 30-day supply of air and ground munitions among those NATO members which have committed forces to the Northern, Center, and Southern Regions.

(3) To construction of the number of minimum essential and emergency operating facilities and semihardened aircraft shelters in Western Europe required by NATO Ministerial Guidance to support, under NATO/SHAPE standards, as a minimum, the annual commitment of United States reinforcing tactical aircraft.

(c)(1) After September 30, 1985, none of the funds appropriated pursuant to an authorization contained in this Act or any other Act enacted after the date of the enactment of this Act may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level exceeding a permanent ceiling of 326,414. The Secretary of Defense may exceed such permanent ceiling in any year by a number equal to not more than ½ of 1 percent for the purpose of achieving sound management in the rotation of members of the Armed Forces of the United States to and from assignment to permanent duty ashore in European member nations of NATO, but only if the Secretary determines that the increase in such year is necessary for such purpose.[7]

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[7] This sentence was added by sec. 1101 of the Department of Defense Authorization Act of 1986 (Public Law 99-145, 99 Stat. 707).

(2) If the Secretary of Defense certifies to the Congress in writing during any fiscal year after fiscal year 1985 that during the previous fiscal year the member nations of NATO (other than the United States) have undertaken significant measures to improve their conventional defense capacity consistent with the goals set forth in subsection (b) which contributes to lengthening the time period between an armed attack on any NATO country and the time the Supreme Allied Commander, Europe, would have to request the release and use of nuclear weapons, the Congress would give strong consideration to authorizing an increase in the permanent ceiling prescribed in paragraph (1) for fiscal years after such fiscal year.

(d)(1) Not later than April 1, 1985, and each year thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the status, as of January 1 of the year in which the report is submitted, of the following matters:

(A) The number of days of supply of the ground and aerial munitions in hand or on order of the member nations of NATO (other than the United States) which have committed forces to the Northern, Center, and Southern Regions.

(B) The number of facilities and semihardened aircraft shelters completed or under construction as they relate to the United States commitment of reinforcing aircraft in the United States Defense Planning Questionnaire (DPQ) Response of the previous year.

(2)(A) Beginning with the budget submitted to Congress for fiscal year 1986, but not later than April 1, 1985, and each year thereafter, the Secretary of Defense shall submit to Congress a report on the status and cost of the United States commitment to NATO as reflected in the DPQ Response and in the defense budget request. The report shall be an annual update of the Department of Defense Report entitled "United States Expenditures in Support of NATO", first submitted to the Congress in June 1984 pursuant to section 1107 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 677). In addition to the information required by that section, each such report shall include information which specifically identifies those items in the Secretary of Defense's procurement budget request that are in support of United States forces committed to or earmarked for NATO.

(B) In addition to the requirements of subparagraph (A), the Secretary of Defense shall include in the report an assessment of the performance of the members of NATO (other than the United States) in the following areas:

(i) Allied contributions to the common defense.

(ii) Improvement in sustainability and support for United States reinforcing tactical aircraft.

(iii) Meeting NATO force goals.

(iv) Increasing NATO infrastructure funding.

(v) Improvements in air base defenses.

(vi) Increasing trained manpower levels, particularly reserves.

(vii) Increasing war reserve material.

(viii) Improving NATO's ability to neutralize enemy follow-on forces, including use of emerging technologies.

(ix) Improvements in mine/counter mine capability.

(x) Improvements in offensive counter air capability.

(e)(1) The Congress finds that a viable "two-way street" of defense procurement improves NATO interoperability and therefore is important to overall improvements in conventional defense.

(2)(A) In addition to any funds appropriated pursuant to the authorization contained in section 201 for the activities of the Director of Test and Evaluation, Defense, the Director may use an additional amount, not to exceed $50,000,000, to acquire certain types of weapons, subsystems, and munitions of European NATO manufacture for side-by-side testing with comparable United States manufactured items. Such additional amount shall be derived from any funds appropriated pursuant to an authorization contained in this Act. (Items that may be acquired under this paragraph include submunitions and dispensers, anti-tank and anti-armor guided missiles, mines, runway-cratering devices, torpedoes, mortar systems, light armored vehicles, and high-velocity anti-tank guns.)

(f)(1) This section shall not apply in the event of a declaration of war or an armed attack on any NATO member country.

(2) This section may be waived by the President if he declares an emergency and immediately informs the Congress of his action and the reasons therefor.

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

Sec. 1003.[6] (a) In recognition of the increasing military threat faced by the Western World and in view of the growth, relative to the United States, in the economic strength of Japan, Canada, and a number of Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of the Congress that—

(1) the burdens of mutual defense now assumed by some of the countries allied with the United States under those agreements are not commensurate with their economic resources;

(2) since May 1978, when each member nation of the North Atlantic Treaty Organization (NATO) agreed to increase real defense spending annually in the range of 3 percent, most NATO members, except for the United States, have failed to meet the 3 percent real growth commitment consistently;

(3) since May 1981, when the Government of Japan established its policy to defend the air and sea lines of communication out to 1,000 nautical miles from the coast of Japan, progress to develop the necessary self-defense capabilities to fulfill that pledge has been extremely disappointing;

(4) Japan is the ally of the United States with the greatest potential for improving its self-defense capabilities and should, therefore, rapidly increase its annual defense spending to the levels required to fulfill that pledge and to enable Japan to be capable of an effective conventional self-defense capability by 1990, including the capability to carry out its 1,000-mile de-

fense policy, a development that would be consonant not only with Japan's current prominent position in the family of nations but also with its unique sensibilities on the issues of war and peace, sensibilities that are recognized and respected by the people of the United States; and

(5) the continued unwillingness of such countries to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) It is further the sense of the Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and an agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

(c) The Secretary of Defense shall submit to the Congress each year, not later than March 1, a classified report containing—

(1) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of NATO, and by Japan based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist and their impact on mutual defense efforts;

(2) a description of efforts by the United States and the efforts of other members of the alliances to eliminate any existing disparities;

(3) projected estimates of the real growth in defense spending for the fiscal year in which the report is submitted for each NATO member nation;

(4) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in the fiscal year immediately preceding the fiscal year in which the report is submitted;

(5) an explanation of those instances in which the commitments to real growth in defense spending have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments;

(6) a description of the activities of each NATO member and Japan to enhance the security and stability of the Southwest Asia region and to assume additional missions for their own defense as the United States allocates additional resources to the mission of protecting Western interests in world areas not covered by the system of Western Alliances; and

(7) a description of what additional actions the executive branch plans to take should the efforts by the United States referred to in clauses (2) and (5) fail, and, in those instances where such additional actions do not include consideration of the repositioning of American troops, a detailed explanation as to why such repositioning is not being so considered.

(d) The Secretary of Defense shall also submit to the Congress not more than 30 days after the submission of the report required under subsection (a) an unclassified report containing the matters set forth in clauses (1) through (7) of such subsection.

NATO SEASPARROW COOPERATIVE PROGRAM

Sec. 1004. The Secretary of the Navy is authorized to continue participation, in accordance with current operating procedures, in the North Atlantic Treaty Organization SEASPARROW Surface Missile System Cooperative Consortium, as described in the Memorandum of Understanding between the United States, Denmark, Norway, Italy, the Netherlands, Belgium, Canada, Greece, and Federal Republic of Germany, signed by the United States on June 6, 1968, and the Memorandum of Understanding between the same countries, signed by the United States on May 20, 1977.

PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES

Sec. 1005. * * * [8]

POLICY ON ARMAMENTS COOPERATION WITH NATO MEMBER COUNTRIES

Sec. 1006. Not later than May 1, 1985, the Secretary of Defense shall transmit to Congress a report setting forth a comprehensive proposal by which the United States and NATO member countries may achieve the objectives described in section 1122(b) of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 755).[9]

AUTHORITY OF SECRETARY OF DEFENSE IN CONNECTION WITH COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE

Sec. 1007. (a) During fiscal year 1985, the Secretary of Defense may carry out the European air defense agreements. In carrying out those agreements during that year, the Secretary—

(1) may provide without monetary charge to the Federal Republic of Germany articles and services as specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) In connection with the administration of the European air defense agreements during fiscal year 1985, the Secretary of Defense may—

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(A));

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units to the Federal Republic of Germany contemplated in the agreements;

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[8] Sec. 1005 added a new sec. 2401a to title 10, U.S.C. For text, see page 788.

[9] For text, see page 916.

(3) use, to the extent contemplated in the agreements, the NATO Maintenance and Supply Agency (A) for the supply of logistic support in Europe for the Patriot missile system, and (B) for the acquisition of such logistic support, to the extent that the Secretary determines that the procedures of that agency governing such supply and acquisition are appropriate;

(4) share, to the extent contemplated in the agreements, the costs of set- up charges of facilities for use by that agency to perform depot-level support of Patriot missile fire units in Europe; and

(5) deliver to the Federal Republic of Germany one Patriot missile fire unit configured for training, to be purchased by the Federal Republic of Germany under the Arms Export Control Act as contemplated in the agreements, without regard to the requirement in section 22 of that Act (22 U.S.C. 2762) for payment in advance of delivery for any purchase under that Act.

(c) Notwithstanding the rate required to be charged under section 21 of the Arms Export Control Act for services furnished by the United States, in the case of the 14 Patriot missile fire units which the Federal Republic of Germany purchases from the United States under that Act as contemplated in the European air defense agreements, the rate charged by the Secretary of Defense for packing, crating, handling, and transportation services associated with that purchase may not exceed the established Department of Defense rate for such services.

(d) For the purposes of this section, the term "European air defense agreements" means (1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983, and (2) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Federal Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Contral Europe", signed on July 12, 1984.

(e) The authority of the Secretary of Defense to enter into contracts under the European air defense agreements is available only to the extent that appropriated funds are otherwise available for that purpose.

TITLE XI—MATTERS RELATING TO ARMS CONTROL [10]

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TITLE XV—GENERAL PROVISIONS

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[10] For text, see vol. II, sec. F.

PART B—PROVISIONS RELATING TO SPECIFIC PROGRAMS

CHEMICAL WARFARE REVIEW COMMISSION

Sec. 1511. (a) The President shall establish a bipartisan commission to be known as the "Chemical Warfare Review Commission". The Commission shall review the overall adequacy of the chemical warfare posture of the United States with particular emphasis on the question of whether the United States should produce binary chemical munitions, and shall report its findings and recommendations to the President not later than April 1, 1985. In developing its recommendations, the Commission shall consider—

(1) the relationship of chemical stockpile modernization by the United States with the ultimate goal of the United States of achieving a multilateral, comprehensive, and verifiable ban on chemical weapons;

(2) the adequacy of the existing United States stockpile of unitary chemical weapons in providing a credible deterrent to use by the Soviet Union of chemical weapons against United States and allied forces;

(3) whether the binary chemical modernization program proposed by the Department of Defense is adequate to support United States national security policy by posing a credible deterrent to chemical warfare; and

(4) the ability of defensive measures alone to meet the Soviet chemical warfare threat and the adequacy of funding for current and projected defensive measure programs.

(b) The President shall submit to Congress the report of the Commission, together with the President's comments on the report, not later than April 1, 1985.

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PART C—MISCELLANEOUS DEFENSE REPORTING REQUIREMENTS

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STUDY OF FOREIGN SALES AND PROCUREMENT OF DEFENSE ARTICLES

Sec. 1522. (a)(1) The Secretary of Defense, in consultation with the heads of other appropriate Federal agencies, shall carry out a study to assess how the adequacy of the industrial base of the United States in the event of a war or national emergency is affected—

(A) by procurement by the Department of Defense of defense articles that are produced outside the United States or that are assembled from components, or fabricated from materials, produced outside the United States; and

(B) by sales by the Department of Defense or commercial manufacturers of defense articles manufactured in the United States to purchasers outside the United States.

(2) For the purposes of this section, the term "foreign-component defense article" means a defense article—

(A) that was produced outside the United States;

(B) that was assembled from over 50 percent components, or fabricated from over 50 percent materials, produced outside the United States; or

(C) that contains a major component that was produced outside the United States.

(b) The study under subsection (a) shall assess the effects of restrictions on the procurement of foreign-component defense articles on the overall United States balance of trade, on the balance of trade in defense articles, on treaties currently in effect, on the budgetary cost of national defense, on existing memoranda of understanding, on United States military alliances, and on efforts to increase the rationalization, standardization, and interoperability of articles used by North Atlantic Treaty Organizations forces.

(c) Restrictions to be considered for the purposes of subsection (b) shall include—

(1) a prohibition on procurement of foreign-component defense articles;

(2) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source unless there is also a domestic producer of the article;

(3) a prohibition on procurement of defense articles (and major components of defense articles) from a country with which the United States has an unfavorable balance of trade in defense articles; and

(4) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source of more than 50 percent of the total quantity of the defense article (or major component) to be procured.

(d) The study under subsection (a) shall consider circumstances and requirements under a war or national emergency of both a brief duration and a long duration.

(e) A report of the study under subsection (a) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives not later than October 15, 1985.

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REPORT ON AMERICANS UNACCOUNTED FOR OR MISSING IN INDOCHINA

Sec. 1525. (a) The Congress finds that—

(1) the President has declared that the issue of the 2,483 Americans missing or otherwise unaccounted for the Indochina is an issue of the highest national priority and has initiated high level discussions with the Governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam on the issue;

(2) the Congress, on a bipartisan basis, fully supports these initiatives and realizes that the fullest possible accounting of those Americans can only be achieved with the cooperation of those governments;

(3) the Government of the Lao People's Democratic Republic has recently taken positive actions to assist the United States Government in resolving the status of those missing Americans; and

(4) the Government of the Socialist Republic of Vietnam has pledged to cooperate with the Government of the United States in resolving this humanitarian issue, separate from other issues dividing the two countries.

(b) The Congress strongly urges the President—

(1) to ensure that officials of the United States Government conscientiously and fully carry out the pledge of the President to commit the full resources of the United States Government to resolve the issue of the 2,483 Americans still missing or otherwise unaccounted for in Indochina;

(2) to pursue vigorously all reports concerning sightings of live Americans who may be among those missing or otherwise unaccounted for in Indochina;

(3) to work to achieve the fullest possible accounting of all Americans missing or otherwise unaccounted for in Indochina;

(4) to seek the immediate return of the remains of all Americans who have died in Indochina and whose remains have not been returned; and

(5) to make every effort to secure the further cooperation of the Lao People's Democratic Republic and the Socialist Republic of Vietnam in resolving this humanitarian issue of fundamental importance.

(c) The Congress calls upon the Socialist Republic of Vietnam and the Lao People's Democratic Republic to accelerate cooperation with the United States in achieving the fullest possible accounting for Americans still missing in Indochina.

(d) Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report detailing actions being taken by the United States Government described in subsection (b).

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Part D—Miscellaneous Defense-Related Matter

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AUTHORIZATION FOR SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO FOREIGN COUNTRIES [11]

Sec. 1540. (a) Notwithstanding any other provision of law, during fiscal year 1987,[12] the Secretary of Defense may transport on a space available basis, at no charge, to any country in any area of the world [11] goods and supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance.

(b)(1) The President shall institute procedures, including complete inspection prior to acceptance for transport, for determining that—

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[11] Sec. 306 (a) and (b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 617), amended sec. 1540(a) and the caption above it by authorizing transport to "foreign countries" or to "any area of the world" in lieu of "Central America".

[12] Sec. 332 of Public Law 99-661 (100 Stat. 3816) changed the years "1985 and 1986" to "fiscal year 1987".

(A) the transport of any goods and supplies transported under this section is consistent with foreign policy objectives;

(B) the goods and supplies to be transported are suitable for humanitarian purposes and are in usable condition;

(C) there is a legitimate humanitarian need for such goods and supplies;

(D) the goods and supplies will in fact be used for humanitarian purposes; and

(E) there are adequate arrangements for the distribution of such goods and supplies in the country of destination.

(2) Goods and supplies determined not to meet the criteria of paragraph (1) may not be transported under this section.

(3) It shall be the responsibility of the donor to ensure that goods or supplies to be transported under this section are suitable for transport.

(c) Goods and supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, or international organization, or a private nonprofit relief organization. The Secretary of Defense may not accept any goods or supplies for transportation under this section unless verification of adequate arrangements has been received in advance for distribution of such goods and supplies.

(d) Goods or supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in military or paramilitary activity.

(e) No later than 90 days after the date of the enactment of this section, and every 60 days thereafter, the Secretary of State shall report to the Congress concerning the origin, contents, destination, and disposition of all goods and supplies transported under this section.

PART E—OTHER MISCELLANEOUS MATTERS

SURVIVORS OF THE GLOMAR JAVA SEA

Sec. 1541. (a) The Congress finds that—

(1) on October 26, 1983, the United States registered oil drilling ship Glomar Java Sea was reported missing during stormy weather at its drilling site 60 miles off Hainan Island in the South China Sea and was found sunken near its drilling site on November 1, 1983;

(2) no evidence has been found of 46 of the 81 crewmen, including citizens of the United States, or of the lifeboats which, reportedly, were launched from the Glomar Java Sea, despite an intensive cooperative search involving United States military search and rescue aircraft and commercial vessels;

(3) the Chairman of the United States Coast Guard Marine Board of Investigation has concluded that it is possible that crewmembers of the Glomar Java Sea survived and drifted into waters near the coast of Vietnam; and

(4) the Government of Vietnam has refused to allow an independent search for the possible survivors to be conducted in waters within 20 miles of such coast.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President should, through all appropriate bilateral and multilateral channels, continue and accelerate the effort to obtain the cooperation of the Government of Vietnam in ascertaining the fate or locations of the 46 crewmen of the sunken United States registered vessel Glomar Java Sea.

POLICY REGARDING THE FURNISHING OF FOOD AND MEDICAL SUPPLIES TO AFGHANISTAN

Sec. 1542. (a) The Congress finds—

(1) that after more than four years of occupation by the military forces of the Soviet Union, the freedom-loving people of Afghanistan continue to resist the oppression of the Soviet Union;

(2) that the current Soviet Union offensive has resulted in great suffering and destruction in Afghanistan and has intensified the Soviet policy which targets civilian populations; and

(3) that this "scorched earth" policy of the Soviet Union, which has resulted in the destruction of crops, food supplies, farms, hospitals, and other public buildings in Afghanistan, has been a desperate attempt on the part of the Soviet Union to subdue the population of that country or to force the depopulation of certain areas which the occupying forces of the Soviet Union are unable to control.

(b) It is, therefore, the sense of Congress that the free world should take all appropriate steps to ensure that the people of Afghanistan have the necessary food and medical supplies adequate to sustain themselves while they are being ravaged by the invading forces of the Soviet Union.

REAFFIRMATION OF UNITED STATES POLICY TOWARD CUBA

Sec. 1543. (a) It is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the joint resolution entitled "Joint resolution expressing the determination of the United States with respect to the situation in Cuba", approved by the President on October 3, 1962 (Public Law 87-733; 76 Stat. 697).[13]

(b) Nothing in this section shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, the Foreign Assistance Act of 1961, or the War Powers Resolution. This section does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution.

REPORT ON USE OF CUBAN AND RUSSIAN NICKEL IN DEFENSE PROCUREMENTS

Sec. 1544. Not later than April 1, 1985, the Secretary of Defense shall submit to Congress a report on the effects on the national security of the United States of procurement by the Department of Defense of products containing nickel produced in Cuba or the

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[13] For text, see vol. II, sec. G.

Soviet Union. The report shall be prepared after consultation with the Secretaries of Commerce, the Interior, and the Treasury.

TITLE XVII—UNITED STATES INSTITUTE OF PEACE [14]

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[14] Title XVII, cited as the United States Institute of Peace Act, can be found in vol. II, sec. D.

i. Military Construction Authorization Act, 1986

Partial text of Public Law 99-167 [H.R. 3327], 99 Stat. 1029, approved December 10, 1985

AN ACT Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1986, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1986, for military construction functions administered by the Department of Defense, and for other purposes, namely:

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GENERAL PROVISIONS

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SEC. 124. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States personnel or their dependents, or from being smuggled into the United States. Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application to such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

j. Department of Defense Authorization Act, 1984

Partial text of Public Law 98-94 [S. 675], 97 Stat. 614, approved September 24, 1983, as amended by Public Law 98-525 [Department of Defense Authorization Act, 1985; H.R. 5167], 98 Stat. 2492 at 2574, approved October 19, 1984; and by Public Law 100-456 [National Defense Authorization Act, Fiscal Year 1989, H.R. 4481], 102 Stat. 1918, approved September 29, 1988

AN ACT To authorize appropriations for fiscal year 1984 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE XI—NATO AND RELATED MATTERS

NORTH ATLANTIC DEFENSE COOPERATIVE PROGRAMS

Sec. 1101. In order to fulfill the international obligations incurred by the United States under the North Atlantic Treaty Organization's Long-Term Defense Program for the rapid reinforcement of Europe, and recognizing that such action is in the national interest of the United States, the Secretary of Defense shall carry out commitments of the United States under the United States-German Wartime Host Nation Support Agreement of April 15, 1982, and under the Prepositioned Materiel Configured in Unit Sets (POMCUS) program by the earliest practicable date. The Secretary of Defense shall include in his annual report to the Congress a statement describing the status of implementation of such agreement and program, including his assessment of whether our allies are bearing their equitable share under such agreement and program and whether the implementation of such agreement and program adversely affects the readiness of the reserve components of the Armed Forces of the United States.

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

Sec. 1102.[1] (a) In recognition of the increasing military threat faced by the Western World and in view of the growth, relative to the United States, in the economic strength of Japan, Canada, and a number of Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security treaty between Japan and the United States on January 19, 1960, it is the sense of the Congress that—

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[1] 22 U.S.C. 1928 note.

(1) the burdens of mutual defense now assumed by some of the countries allied with the United States under those agreements are not commensurate with their economic resources;

(2) since May 1978, when each NATO member nation agreed to increase real defense spending annually in the range of 3 percent, most NATO members, except for the United States, have failed to meet the 3 percent real growth commitment consistently and performance toward this goal in 1983 is estimated to be the most deficient, on average, since the goal was established;

(3) since May 1981, when the Government of Japan established its policy to defend the air and sea lines of communication out to 1,000 nautical miles from the coast of Japan, progress to develop the necessary self-defense capabilities to fulfill that pledge has been extremely disappointing;

(4) Japan is the ally of the United States with the greatest potential for improving its self-defense capabilities and should, therefore, rapidly increase its annual defense spending to the levels required to fulfill that pledge and to enable Japan to be capable of an effective conventional self-defense capability by 1990, including the capability to carry out its 1,000-mile defense policy, a development that would be consonant not only with Japan's current prominent position in the family of nations but also with its unique sensibilities on the issues of war and peace, sensibilities that are recognized and respected by the people of the United States; and

(5) the continued unwillingness of such countries to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesiveness of the alliances between those countries and the United States.

(b) It is further the sense of the Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and an agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

(c)(1) The Secretary of Defense shall submit to the Congress not later than March 1, 1984, a classified report containing—

(A) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of the North Atlantic Treaty Organization (NATO), and by Japan, based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist and their impact on mutual defense efforts;

(B) a description of efforts by the United States and of other efforts to eliminate existing disparities;

(C) estimates of the real growth in defense spending in fiscal year 1983 projected for each NATO member nation compared with the annual real growth goal in the range of 3 percent set in May 1978;

(D) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in fiscal year 1984;

(E) an explanation of those instances in which the commitments to real growth in defense spending have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments;

(F) a description of the activities of each NATO member and Japan to enhance the security and stability of the Southwest Asia region and to assume additional missions for their own defense as the United States allocates additional resources to the mission of protecting Western interests in world areas not covered by the system of Western Alliances; and

(G) a description of what additional actions the executive branch plans to take should the efforts by the United States referred to in clauses (B) and (E) fail, and, in those instances where such additional actions do not include consideration of the repositioning of American troops, a detailed explanation as to why such repositioning is not being so considered.

(2) The Secretary of Defense shall also submit to the Congress not more than 30 days after the submission of the report required under paragraph (1) an unclassified report containing the matters set forth in clauses (A) through (G) of such paragraph.

LIMITATION ON NUMBER OF MILITARY PERSONNEL STATIONED IN EUROPE

Sec. 1103. (a) Except as provided in subsections (b) and (c), none of the funds authorized to be appropriated by this or any other Act may be used for the purpose of supporting an end-strength level, as of September 30, 1984, of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level in excess of 315,600.

(b) A number of United States military personnel in excess of 315,600, but not in excess of 320,000, may be permanently assigned to duty ashore in such European nations as of September 30, 1984, if—

(1) the Secretary of Defense determines and certifies to the Congress in writing that on September 30, 1984, the total number of military personnel of NATO member nations, other than the United States, stationed in the Federal Republic of Germany will not be less than the total number of military personnel of such member nations stationed in that country on the date of the enactment of this Act;

(2) the Secretary of Defense certifies to the Congress in writing on or after June 1, 1984, that the budget for the Department of Defense for fiscal year 1985 and the Five-Year Defense Plan of the Department of Defense for fiscal years 1985 through 1989 give significant priority to programs directly intended to improve NATO's conventional capabilities, particularly its capability for deep interdiction;

(3) the Department of Defense has conducted a thorough and detailed analysis of the United States force and support structure in Europe which the Secretary of Defense submits to Congress on or after June 1, 1984, with his certification in writing that a number of United States military personnel in excess of 315,600 is required to meet the United States commitment to NATO; and

(4) the studies required by sections 1104 through 1107 have been conducted and the reports and recommendations resulting from such studies have been submitted to the Congress.

(c) A number of United States military personnel in excess of 315,600 or in excess of 320,000 may be assigned to permanent duty ashore in European member nations of NATO as of September 30, 1984, without the conditions specified in subsection (b) having been met if the President (1) determines and certifies to the Congress in writing that overriding national security interests require a number of such personnel to be assigned to permanent duty ashore in such nations in excess of 315,600 or 320,000, as the case may be, and (2) includes in the certification the total number of such personnel required and an explanation of the overriding national security interests that require such number of personnel.

(d) In computing the limitation specified in subsections (a) and (b), there may be excluded not more than 2,600 military personnel assigned to the Ground Launched Cruise Missile program and the Pershing II Missile program.

REPORT ON IMPROVEMENT OF CONVENTIONAL FORCES OF NATO

Sec. 1104. (a) At the same time the President submits the budget for fiscal year 1985 pursuant to section 1105 of title 31, United States Code, but not later than May 1, 1984, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report and plan for improving conventional defense capabilities of the North Atlantic Treaty Organization (NATO). The Secretary shall include in such report—

(1) his recommendations on how NATO's strategy and military program could and should be changed to improve substantially the chances of a successful conventional defense of Europe;

(2) a statement and explanation of what the aggregate NATO conventional defense requirements are;

(3) a current assessment and statement of the status of the Air-Land Battle concept within the Department of Defense and NATO;

(4) an explanation of how and to what extent the various doctrines of NATO military forces are coordinated, and how variations in doctrine can be rectified or exploited to NATO's advantage;

(5) his judgment on the most effective means by which NATO military forces can be operationally integrated to implement the Air-Land Battle concept;

(6) the United States programs which are necessary to support improved NATO conventional capabilities, the changes

which are needed, and what the fiscal year 1985 budget and Five-Year Defense Plan of the Department of Defense for fiscal years 1985 through 1989 provide for with respect to NATO conventional capabilities;

(7) the United States conventional programs and weapons that are provided for in the fiscal year 1985 budget and Five-Year Defense Plan of the Department of Defense for fiscal years 1985 through 1989 to enhance the disruption and destruction of Soviet follow-on echelons as well as fixed-site military targets;

(8) the new weapons or systems which are available for such purpose that are not in the current budget or Five-Year Defense Plan of the Department of Defense;

(9) a determination of what are the achievable NATO-wide improvements in conventional defense capability; and

(10) a separate addendum and assessment by the Supreme Allied Commander, Europe, on measures necessary to improve NATO conventional defense capabilities including a recommended plan for such measures.

(b) The President shall submit to the Congress not later than June 1, 1984, his recommendations and plan for improving NATO conventional defense capabilities.

REPORT ON THE NUCLEAR POSTURE OF NATO

Sec. 1105. (a) The Secretary of Defense shall conduct a study on the tactical nuclear posture of the North Atlantic Treaty Organization (NATO) and submit a report on the results of such study to the Committees on Armed Services of the Senate and the House of Representatives not later than May 1, 1984. Such study shall include—

(1) a detailed assessment of the current tactical nuclear balance in Europe and that projected for 1990;

(2) an assessment of the current, respective operational doctrines for the use of tactical nuclear weapons in Europe of the Warsaw Pact and NATO;

(3) an explanation of how the threat of the use of such weapons relates to deterrence and to conventional defense;

(4) an identification of the number and types of nuclear warheads, if any, considered to be inessential to the defense structure of Western Europe, the quantity and type of such weapons that could be eliminated from Europe under appropriate circumstances without jeopardizing the security of NATO nations and an assessment of what such circumstances might be;

(5) an explanation of the steps that can be taken to develop a rational and coordinated nuclear posture by NATO in a manner that is consistent with proper emphasis on conventional defense forces; and

(6) an identification of any notable, relevant developments that have occurred since the submission to the Congress in April 1975 of the report entitled "The Theater Nuclear Force Posture in Europe", prepared by the Secretary of Defense pursuant to section 302 of the Department of Defense Appropriation Authorization Act, 1975 (Public Law 93-365), which might

cause the findings and conclusions of that report to require revision and such revisions in such report as the Secretary considers appropriate.

(b) The President shall submit a written report to the Congress on or before June 1, 1984, containing his views on the Department of Defense study and report required under subsection (a) together with such recommendations with respect to such study and report as he considers appropriate.

REPORT ON COMBAT-TO-SUPPORT RATIO OF UNITED STATES FORCES IN EUROPE IN SUPPORT OF NATO

Sec. 1106. (a) The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives not later than May 1, 1984, on the combat, combat support, combat service support, and noncombat components of the Armed Forces of the United States assigned to permanent duty in Europe in support of the North Atlantic Treaty Organization (NATO). The Secretary shall include in such report—

(1) an analysis of the historical (since 1974), current, and projected combat, combat support, combat service support, and noncombat components of the Armed Forces of the United States assigned to permanent duty in Europe in support of NATO and their relationship to each other;

(2) a review of the requirements for such combat, combat support, combat service support, and noncombat components; and

(3) his assessment of the current balance among units of United States combat components, combat support components, and combat service support components forward deployed in Europe and his recommendations for any changes needed to improve that balance in the future.

(b) For the purposes of the report required by subsection (a)—

(1) the combat component of the Army includes only the infantry, cavalry, artillery, armored, combat engineers, special forces, attack assault helicopter units, air defense, and missile combat units of battalion or smaller size;

(2) the combat component of the Navy includes only the combatant ships (aircraft carrier, battleship, cruiser, destroyer, frigate, submarine, and amphibious assault ships) and combat aircraft wings (fighter, attack, reconnaissance, and patrol); and

(3) the combat component of the Air Force includes only the tactical fighter, reconnaissance, tactical airlift, fighter interceptor, and bomber units of wing or smaller size.

REPORT ON UNITED STATES EXPENDITURES IN SUPPORT OF NATO

Sec. 1107. (a) The Secretary of Defense shall review and analyze the fiscal year 1983 expenditures of the Department of Defense in fulfilling the United States commitment to the North Atlantic Treaty Organization (NATO) and the expenditures projected for such purpose for each of the fiscal years 1984 through 1989.

(b)(1) The Secretary of Defense shall submit a detailed written report to the Congress not later than June 1, 1984, on the review and analysis required under subsection (a). The Secretary shall set out in such report, in current and constant fiscal year 1983 dollar figures, the expenditures made in fiscal year 1983 and expenditures projected to be made in fiscal years 1984 through 1989 by the United States in fulfilling its commitment to NATO in each of the following categories:

(A) Procurement.
(B) Operations and maintenance.
(C) Military construction.
(D) Military personnel.
(E) Research, development, test, and evaluation.

(2) The Secretary of Defense shall also include in such report a separate breakout of the fiscal year 1983 Department of Defense expenditures in each of the categories specified in paragraph (1) for the Armed Forces of the United States assigned to permanent duty ashore in the European member nations of NATO and the expenditures projected to be incurred by the Department of Defense in each of those categories in each of the fiscal years 1984 through 1989 for personnel of the Armed Forces of the United States planned to be assigned to permanent duty ashore in such nations during each of those fiscal years. The Secretary of Defense shall also include in such report similar separate breakouts for all classes of United States forces reflected in the data submitted to the Committee on Armed Services of the Senate and printed in part 1, pages 61–68, of that Committee's hearings on Department of Defense Authorization For Appropriations For Fiscal Year 1982.

(3) The Secretary of Defense shall also include in such report the estimated percentage growth in each of the five categories specified in paragraph (1) of subsection (b), after allowing for inflation, from one year to the next for the fiscal years 1983 through 1989. In the case of each category of expenditures for which the annual projected rate of expenditure growth after fiscal year 1983 exceeds 3 percent, after allowing for inflation over the previous fiscal year, the Secretary shall include his assessment of the impact on NATO of limiting the growth of expenditures in that category to 3 percent real growth.

TITLE XII—GENERAL PROVISIONS

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POLICY GOVERNING THE TEST OF ANTI-SATELLITE WARHEADS

Sec. 1235.[2] (a) Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test against an object in space the miniature homing vehicle (MHV) anti-satellite warhead launched from an F-15 aircraft unless the President determines and certifies to Congress—

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[2] Sec. 205 of the DOD Authorization Act, 1985 (Public Law 98–525, 98 Stat. 2492 at 2509) amended and restated sec. 1235. It formerly read as follows:

"ESTABLISHING CRITERIA GOVERNING THE TEST OF ANTISATELLITE WARHEADS

"Sec. 1235. Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test any explosive or insert antisatellite warheads against objects in space unless the President determines and certifies to the Congress—

"(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable ban on antisatellite weapons; and

"(1) that, pending agreement on such a ban, testing of explosive or inert antisatellite warheads against objects in space by the United States is necessary to avert clear and irrevocable harm to the national security."

(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on anti-satellite weapons consistent with the national security interests of the United States;

(2) that, pending agreement on such strict limitations, testing against objects in space of the F-15 launched miniature homing vehicle anti-satellite warhead by the United States is necessary to avert clear and irrevocable harm to the national security.

(3) that such testing would not constitute an irreversible step that would gravely impair prospects for negotiations on anti-satellite weapons; and

(4) that such testing is fully consistent with the rights and obligations of the United States under the Anti-Ballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.

(b) During fiscal year 1985, funds appropriated for the purpose of testing the F-15 launched miniature homing vehicle anti-satellite warheads may not be used to conduct more than two successful tests of that warhead against objects in space.

(c) The limitations on the expenditure of funds provided by this section shall cease to apply 15 calendar days after the date of the receipt by Congress of the certification referred to in subsection (a).

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LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER ARMS EXPORT CONTROL ACT

Sec. 1237.[3] The authority of the President under section 21(e)(2) of the Arms Export Control Act may be exercised without regard to the limitation imposed by section 770 of the Department of Defense Appropriation Act, 1983 (as contained in Public Law 97-377; 96 Stat. 1862).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

Sec. 1238.[3] The Arms Export Control Act shall be administered as if section 747 of the Department of Defense Appropriation Act, 1983 (as contained in Public Law 97-377; 96 Stat. 1858) had not been enacted into law.

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[3] Although secs. 1237 and 1238 lifted these restrictions concerning certain provisions of the Arms Export Control Act as they applied during fiscal year 1983, similar restrictions were reenacted as secs. 743A and 762A of the Department of Defense Appropriation Act, 1984.

k. Department of Defense Authorization Act, 1983

Partial text of Public Law 97-252 [S. 2248], 96 Stat. 718, approved September 8, 1982

AN ACT To authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Authorization Act, 1983".

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TITLE XI—GENERAL PROVISIONS

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NATO DEFENSE INDUSTRIAL COOPERATION

Sec. 1122.[1] (a) The Congress finds that—

(1) the United States remains firmly committed to cooperating closely with its North Atlantic Treaty Organization (hereinafter in this section referred to as "NATO") allies in protecting liberty and maintaining world peace;

(2) the financial burden of providing for the defense of Western Europe and for the protection of the interests of NATO member countries in areas outside the NATO treaty area has reached such proportions that new cooperative approaches among the United States and its NATO allies are required to achieve and maintain an adequate collective defense at acceptable costs;

(3) the need for a credible conventional deterrent in Western Europe has long been recognized in theory but has never been fully addressed in practice;

(4) a more equitable sharing by NATO member countries of both the burdens and the technological and economic benefits of the common defense would do much to reinvigorate the North Atlantic Treaty Organization alliance with a restored sense of unity and common purposes;

(5) a decision to coordinate more effectively the enormous technological, industrial, and economic resources of NATO member countries will not only increase the efficiency and effectiveness of NATO military expenditures but also provide in-

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[1] 22 U.S.C. 1928 note.

ducement for the Soviet Union to enter into a meaningful arms reduction agreement so that both Warsaw Pact countries and NATO member countries can devote more of their energies and resources to peaceful and economically more beneficial pursuits.

(b) It is the sense of the Congress that the President should propose to the heads of government of the NATO member countries that the NATO allies of the United States join the United States in agreeing—

(1) to coordinate more effectively their defense efforts and resources to create, at acceptable costs, a credible, collective, conventional force for the defense of the North Atlantic Treaty area;

(2) to establish a cooperative defense-industrial effort within Western Europe and between Western Europe and North America that would increase the efficiency and effectiveness of NATO expenditures by providing a larger production base while eliminating unnecessary duplication of defense-industrial efforts;

(3) to share more equitably and efficiently the financial burdens, as well as the economic benefits (including jobs, technology, and trade) of NATO defense; and

(4) to intensify consultations promptly for the early achievement of the objectives described in clauses (1) through (3).

STUDY OF IMPROVED CONTROL OF USE OF NUCLEAR WEAPONS

Sec. 1123. (a) The Secretary of Defense shall conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises. Such study and evaluation shall include consideration of the following:

(1) Establishment of a multi-national military crisis control center for monitoring and containing the use or potential use of nuclear weapons by third parties or terrorist groups.

(2) Development of a forum through which the United States and the Soviet Union could exchange information pertaining to nuclear weapons that could potentially be used by third parties or terrorist groups.

(3) Development of measures for building confidence between the United States and the Soviet Union for improved crisis stability and arms control, including—

(A) an improved United States/Soviet Union communications hotline for crisis control;

(B) improved procedures for verification of any arms control agreements;

(C) measures to reduce the vulnerability of command, control, and communications of both nations; and

(D) measures to lengthen the warning time each nation would have of potential nuclear attack.

(b) The Secretary of Defense shall submit a report of the study and evaluation under subsection (a) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by February 1, 1983. Such report should be available in both a classified, if necessary, and unclassified format.

(c) The President shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by March 1, 1983, on the merits to the arms control process of the initiatives developed under the study and evaluation required by subsection (a) and on the status of any such initiative as it may relate to any arms control negotiation with the Soviet Union.

NEGOTIATIONS FOR BANNING OF CHEMICAL WEAPONS

Sec. 1124. It is the sense of Congress that the President should—

(1) continue to promote actively negotiations among the member countries of the Ad Hoc Working Group on Chemical Warfare of the Committee on Disarmament established by the United Nations General Assembly and meeting in Geneva, Switzerland for the purpose of drafting a treaty for the complete, effective, and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for their destruction;

(2) press vigorously in every appropriate forum for a full explanation of outstanding allegations concerning Soviet and Soviet-proxy use of chemical weapons in violation of international law; and

(3) communicate to the Government of the Union of Soviet Socialist Republics the earnest desire of the Government of the United States for a comprehensive, verifiable ban on chemical weaponry and the willingness of the Government of the United States to participate in negotiations toward this end as soon as the Government of the United States can be satisfied that the Soviet Union is not in violation of existing international accords applying to the prohibition of first use of chemical weapons and the production and transfer of biological weapons and that the Soviet Union is prepared to agree to provisions needed to ensure the verifiability of an accord banning chemical warfare.

1. Department of Defense Appropriation Authorization Act, 1979

Partial text of Public Law 95-485 [S. 3486], 92 Stat. 1611 at 1625, approved October 20, 1978

AN ACT To authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

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TITLE VIII—GENERAL PROVISIONS

* * * * * * *

REALIGNMENT OF MILITARY INSTALLATIONS IN THE CANAL ZONE

Sec. 817. None of the funds authorized to be appropriated by this Act shall be used for the realignment of any military installation in the Canal Zone unless such use is consistent with the responsibility of, and necessity for, the United States to defend the Panama Canal or with legislation which may be enacted to implement the Panama Canal Treaties of 1977.

m. Department of Defense Appropriation Act, 1976

Partial text of Public Law 94-212 [H.R. 9861], 90 Stat. 153, approved February 9, 1976

AN ACT Making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, for military functions administered by the Department of Defense, and for other purposes, namely:

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TITLE VII—GENERAL PROVISIONS

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Sec. 738. None of the funds herein appropriated may be obligated or expended to finance directly or indirectly combat activities by United States military forces in or over or from off the shores of North Vietnam, South Vietnam, Laos, or Cambodia.

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Sec. 743. None of the funds contained in this Act shall be used to furnish petroleum fuels produced in the continental United States to Southeast Asia for use by non-United States nationals.

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n. Department of Defense Appropriation Authorization Act, 1975

Partial text of Public Law 93-365 [H.R. 14592], 88 Stat. 399, approved August 5, 1974; as amended by Public Law 94-106 [H.R. 6674], 89 Stat. 531, approved October 7, 1975; and by Public Law 97-252 [S. 2248], 96 Stat. 718 at 754, approved September 8, 1982

AN ACT To authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE III—ACTIVE FORCES

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Sec. 302. (a) The United States military forces in Europe can reduce headquarters and noncombat military personnel relative to the number of combat personnel located in Europe. Therefore, except in the event of imminent hostilities in Europe, the noncombat component of the total United States military strength in Europe authorized as of June 30, 1974, shall be reduced by 18,000. Such reduction shall be completed not later than June 30, 1976, and not less than 6,000 of such reduction shall be completed on or before June 30, 1975; however, the Secretary of Defense is authorized to increase the combat component strength of United States forces in Europe by the amount of any such reduction made in noncombat personnel. The Secretary of Defense shall report semiannually to the Congress on all actions taken to improve the combat proportion of United States forces in Europe. The first report shall be submitted not later than March 31, 1975.

(b) For purposes of this section, the combat component of the Army includes only the infantry, cavalry, artillery, armored, combat engineers, special forces, attack assault helicopter units, air defense, and missile combat units of battalion or smaller size; the combat component of the Navy includes only the combat ships (aircraft carrier, cruiser, destroyer, submarine, escort and amphibious assault ships) and combat aircraft wings (fighter, attack, reconnaissance, and patrol); the combat component of the Air Force includes only the tactical fighter reconnaissance, tactical airlift, fighter interceptor and bomber units of wing or smaller size.

(c) [1] * * * [Repealed—1982]

(d) The total number of United States tactical nuclear warheads located in Europe on the date of enactment of this Act shall not be increased until after June 30, 1975, except in the event of imminent hostilities in Europe. The Secretary of Defense shall study the overall concept for use of tactical nuclear weapons in Europe; how the use of such weapons relates to deterrence and to a strong conventional defense; reductions in the number and type of nuclear warheads which are not essential for the defense structure for Western Europe; and the steps that can be taken to develop a rational and coordinated nuclear posture by the North Atlantic Treaty Organization Alliance that is consistent with proper emphasis on conventional defense forces. The Secretary of Defense shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives on the results of the above study on or before April 1, 1975.

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TITLE VII—GENERAL PROVISIONS [2]

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Sec. 704. Section 204 of Public Law 93-166 is amended by adding at the end thereof a new subsection as follows:

"(e) Notwithstanding any other provision of law, the conduct by the Department of the Navy of training operations at the Culebra complex involving the firing of any shells, missiles, or other projectiles from ships or the dropping of any bombs, strafing, firing of rockets or missiles, or the launching of any other projectiles from aircraft at Culebra or at any keys within three nautical miles thereof is prohibited during any period of time that the negotiations required by subsection (b) have been ended on the initiative of the United States Government prior to the conclusion of a satisfactory agreement. In the conduct of the negotiations required by subsection (b) the Secretary of the Navy shall not agree to any relocation of training operations from the Island of Culebra which would be rendered ineffective by any international agreement on the law of the sea which may become international law within three years after the date of the enactment of this Act."

* * * * * * *

Sec. 707. (a) No funds authorized to be appropriated by this or any other Act may be obligated under a contract entered into by the Department of Defense after the date of the enactment of this Act for procurement of goods which are other than American goods unless, under regulations of the Secretary of Defense and subject to the determinations and exceptions contained in title III of the Act of March 3, 1933, as amended (47 Stat. 1520; 41 U.S.C. 10a, 10b), popularly known as the Buy American Act, there is adequate consideration given to—

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[1] Subsec. (c), which had directed the Secretary of Defense to assess the costs and possible loss of nonnuclear combat effectiveness of NATO military forces due to failure to follow NATO standardization guidelines, was repealed by Public Law 97-295 (96 Stat. 1314). Public Law 97-295 reconstituted most of the text of subsec. (c) in 10 U.S.C. 2457. For text of 10 U.S.C. 2457, see page 791.

[2] Sec. 702 amended Public Law 84-1028 (Restrictions on Disposal of Naval Vessels), 70A Stat. 1. For text, see page 929.

(1) the bids or proposals of firms located in labor surplus areas in the United States as designated by the Department of Labor which have offered to furnish American goods;

(2) the bids or proposals of small business firms in the United States which have offered to furnish American goods;

(3) the bids or proposals of all other firms in the United States which have offered to furnish American goods;

(4) the United States balance of payments;

(5) the cost of shipping goods which are other than American goods; and

(6) any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

(b) For purposes of this section, the term "goods which are other than American goods" means (1) an end product which has not been mined, produced, or manufactured in the United States, or (2) an end product manufactured in the United States but the cost of the components thereof which are not mined, produced, or manufactured in the United States exceeds the cost of components mined, produced, or manufactured in the United States.

* * * * * * *

Sec. 709.[3] (a) The Congress finds that the defense posture of the United States may be seriously compromised if goods, technology, and industrial techniques which have been developed in whole or in part as a direct or indirect result of research and development programs or procurement programs financed in while or in part with funds authorized by this or any other Act authorizing funds for the Department of Defense are exported to a controlled country without an adequate and knowledgeable assessment having been made to determine whether the export of such goods, technology, and techniques will significantly increase the present or potential military capability of any such country. It is the purpose of this section, therefore, to provide for such an assessment, to insure notice of proposed exports to the Secretary of Defense, and to authorize the Secretary of Defense to review the proposed export of goods, technology, or industrial techniques to any such country whenever he has reason to believe that the export of such goods, technology, or techniques will significantly increase the military capability of such country.

(b) Effective upon enactment of this section, any application for the export of any goods, technology, or industrial techniques described in subsection (a) shall, before being eligible for export to a controlled country, be reviewed and assessed by the Secretary of Defense for the purpose of determining whether the export of such goods, technology or techniques will significantly increase the present or potential military capability of such country.

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[3] According to the General Counsel's Office, Department of Defense, the Attorney General has ruled that sec. 709 is obsolete and that the operating section regarding technology transfer to a controlled country is section 4(h) of the Export Administration Act of 1969. This Act expired on September 30, 1979, and was replaced by the Export Administration Act of 1979. See sec. 5 of the new Act, vol. III, sec. J.

(c) If the Secretary of Defense determines, after his review and assessment, that the export of such goods, technology or industrial techniques will in his judgment significantly increase the present or potential military capability of any controlled country, he shall recommend to the President that the application for export be disapproved. In any case in which the President disagrees with a recommendation made by the Secretary of Defense to prohibit the export of such goods, technology, or techniques to a controlled country, the President shall submit to the Congress a statement indicating his disagreement with the Secretary of Defense together with the recommendation of the Secretary of Defense. The application for the export of any such goods, technology, or techniques may be approved after submission by the President of his statement and the recommendation of the Secretary of Defense to the Congress and 60 days of continuous session of the Congress has elapsed following such submission unless within such 60 day period Congress has adopted a concurrent resolution disapproving the application for the export of such goods, technology, or techniques.

(d) As used in this section (1) the term "controlled country" means the Soviet Union, Poland, Romania, Hungary, Bulgaria, Czechoslovakia, the German Democratic Republic (East Germany), and such other countries as may be designated by the Secretary of Defense, and (2) the term "days of continuous session of the Congress" shall not include days on which either House of Congress is not in session because of an adjournment of more than three days.

(e) The Secretary of Defense shall submit to the Congress a written report on his implementation of this section not later than 30 days after the close of each quarter of each fiscal year. Each such report shall, among other things, identify each instance in which the Secretary recommended to the President that exports be disapproved and the action finally taken by the executive branch on the matter.

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o. Armed Forces Appropriation Authorization, 1971

Partial text of Public Law 91-441 [H.R. 17123], 84 Stat. 909, approved October 7, 1970, as amended by Public Law 95-79 [H.R. 5970], 91 Stat. 323 at 334, approved July 30, 1977

AN ACT To authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize real estate acquisition and construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE V—GENERAL PROVISIONS

Sec. 501. The Congress views with grave concern the deepening involvement of the Soviet Union in the Middle East and the clear and present danger to world peace resulting from such involvement which cannot be ignored by the United States. In order to restore and maintain the military balance in the Middle East, by furnishing to Israel for means of providing for its own security, the President is authorized to transfer to Israel, by sale, credit sale, or guaranty, such aircraft, and equipment appropriate to use, maintain, and protect such aircraft, as may be necessary to counteract any past, present, or future increased military assistance provided to other countries of the Middle East. Any such sale, credit sale, or guaranty shall be made on terms and conditions not less favorable than those extended to other countries which receive the same or similar types of aircraft and equipment. The authority contained in the second sentence of this section shall expire September 30, 1972.[1] In any case in which aircraft or other equipment is transferred under authority of this section and such aircraft or equipment is taken from the inventory of the Armed Forces of the United States or is scheduled to be included in such inventory, the Secretary of Defense shall, as soon as practicable and as authorized by law, restock the inventory of the Armed Forces of the United States with equivalent quantities of aircraft and other equipment so transferred.[2]

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[1] Sec. 807 of Public Law 95-79 (Department of Defense Appropriation Authorization Act, 1978, 91 Stat. 323 at 334) provided the following extension:

"Notwithstanding any other provision of law, the authority provided in section 501 of Public Law 91-441 (84 Stat. 909) is hereby extended until October 1, 1979; but no transfer of aircraft or other equipment may be made under the authority of such section 501 unless funds have been previously appropriated for such transfer."

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[2] The last sentence in sec. 501 was added by sec. 807(b) of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79, 91 Stat. 334).

p. Authorization for an Improved U.S./Soviet Direct Communication Link

Public Law 99-85 [S.J. Res. 108], 99 Stat. 286, approved August 8, 1985

JOINT RESOLUTION Authorizing the Secretary of Defense to provide to the Soviet Union, on a reimbursable basis, equipment and services necessary for an improved United States/Soviet Direct Communication Link for crisis control.

Whereas section 1123(a) of the Department of Defense Authorization Act, 1983 (Public Law 97-252), directed the Secretary of Defense "to conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises;

Whereas the Congress directed that the same study should address several specific measures for building confidence between the United States and the Soviet Union, including an improved Direct Communications Link for crisis control;

Whereas the Secretary of Defense responded to that congressional mandate with a report entitled "Report to the Congress on Direct Communications Links and Other Measures to Enhance Stability" in which the Secretary proposed several improvements to existing United States-Soviet mechanisms for the prevention and resolution of crises, including the addition of a facsimile capability to the United States/Soviet Union Direct Communications Link;

Whereas the President of the United States presented the recommendations of the Secretary of Defense to the Government of the Soviet Union in May 1983;

Whereas the United States and the Soviet Union commenced negotiations on bilateral communications improvements in August 1983, and on July 17, 1984, concluded the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade in which the two governments agreed to add a facsimile capability to the Direct Communications Link;

Whereas the Congress endorses that agreement and remains committed to all possible measures to facilitate the resolution of international crises and to limit the danger of conflict;

Whereas the Secretary of Defense is responsible for the installation, maintenance, and operation of the Direct Communications Link equipment for the United States; and

Whereas the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade provides that the United States Government will provide to the Union of Soviet Socialist Republics, at cost, the equipment and services necessary for the Soviet Union part of the improved Direct Communications Link: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense may provide to the Soviet Union, as provided in the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade, concluded on July 17, 1984, such equipment and services as may be necessary to upgrade or maintain the Soviet Union part of the Direct Communications Link agreed to in the Memorandum of Understanding between the United States and the Soviet Union signed June 20, 1963. The Secretary shall provide such equipment and services to the Soviet Union at the cost thereof to the United States.

SEC. 2. (a) The Secretary of Defense may use any funds available to the Department of Defense for the procurement of the equipment and providing the services referred to in the first section.

(b) Funds received from the Soviet Union as payment for such equipment and services shall be credited to the appropriate account of Department of Defense.

6. Laws Relating to Loan or Sale of Vessels to Foreign Countries

a. Public Law 84-1028 (Title 10, United States Code)

Partial text of Public Law 84-1028 [H.R. 7049], 70A Stat. 1, approved August 10, 1956; as amended by Public Law 93-365 [H.R. 14592], 88 Stat. 399, approved August 5, 1974; Public Law 94-457 [S. 3734], 90 Stat. 1938, approved October 5, 1976, Public Law 96-513 [S. 1918], 94 Stat. 2835, approved December 12, 1980, and by Public Law 99-83 [S. 960], 99 Stat. 190, approved August 8, 1985

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Chapter 633.—NAVAL VESSELS

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Sec. 7307. Restriction on disposal—

(a) Notwithstanding any other provision of law, no battleship, aircraft carrier, cruiser, destroyer, or submarine of the Navy may be sold, transferred, or otherwise disposed of, unless the Chief of Naval Operations certifies that it is not essential to the defense of the United States.

(b) [1] (1) After August 5, 1954,[2] no naval vessel in excess of 3,000 [3] tons or less than 20 years of age may be sold, leased, granted, loaned, bartered, transferred, or otherwise disposed of to another nation unless the disposition thereof has been approved by law enacted after such date, [2] except that any lease or loan of such a vessel under such a law shall be made only in accordance with the provisions of chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.) or chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.).[4]

(2) After August 5, 1954,[2] any naval vessel not subject to the provisions of paragraph (1) may be sold, leased, granted, loaned, bartered, transferred, or otherwise disposed of to another nation in accordance with applicable provisions of law only after the Secretary of the Navy, or his designee, has notified the Committees on Armed Services of the Senate and the House of Representatives in writing of the proposed disposition and 30 days of continuous session of Congress have expired following the date on which notice was transmitted to such committees. For purposes of this paragraph, the continuity of a session of Congress is broken only by an

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[1] Subsec. (b), amended by sec. 702 of Public Law 93-365, 88 Stat. 399 at 406, formerly read as follows:

"(b) Without authority from Congress granted after March 10, 1951, no battleship, aircraft carrier, cruiser, destroyer, or submarine that has not been stricken from the Naval Vessel Register under section 7304 of this title, nor any interest of the United States in such a vessel, may be sold, transferred, or otherwise disposed of under any law."

[2] Sec. 513(28) of Public Law 96-513, 94 Stat. 2933, substituted "August 5, 1954" in lieu of "the date of enactment of this paragraph" and struck out "of enactment" after "such date".

[3] Sec. 2 of Public Law 94-457, 90 Stat. 1938, substituted "3,000" in lieu of "2,000".

[4] The words to this point, beginning with "except" were added by sec. 122 of Public Law 99-83, 99 Stat. 204.

adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 30-day period.

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EXECUTED PUBLIC LAWS

a. Netherlands—Public Law 82-510 [S. 3337], 66 Stat. 587, approved July 11, 1952.

b. Italy and France; Far Eastern and European Nations—Public Law 83-188 [S. 2277], 67 Stat. 363, approved August 5, 1953, as amended by Public Law 84-948 [H.R. 11613], 70 Stat. 967, approved August 3, 1956.

c. Turkey—Public Law 83-214 [S. 2539], 67 Stat. 471, approved August 7, 1953.

d. Brazil—Public Law 84-484 [H.R. 8100], 70 Stat. 105, approved April 6, 1956.

e. Netherlands and Venezuela—Public Law 85-220 [H.R. 6952], 71 Stat. 495, approved August 29, 1957.

f. NATO and the European Area; the Latin American and Far Eastern Areas—Public Law 85-532 [S. 3506], 72 Stat. 376; 50 U.S.C. App. 1878e–1878i, approved July 18, 1958.

g. Italy, Turkey, and the Republic of China—Public Law 86-57 [H.R. 3366], 73 Stat. 90; 50 U.S.C. App. 1878j-1878*l*, approved June 23, 1959.

h. Republic of China—Public Law 86-482 [H.R. 9465], 74 Stat. 153; 50 U.S.C. App. 1878m-1878p, approved June 1, 1960.

i. Portugal, Spain, NATO, Southern Asia, and the Far Eastern Area—Public Law 87-387 [H.R. 7726], 75 Stat. 815; 50 U.S.C. App. 1878q-1878x, approved October 4, 1961.

j. Argentina, Brazil, China, Germany, Greece, Italy, Japan, The Netherlands, Peru, Spain, Thailand, and Turkey—Public Law 88-437 [H.R. 11035], 78 Stat. 444; 50 U.S.C. App. 1878y-1878bb, approved August 14, 1964.

k. Italy, Spain, Argentina, Brazil, Turkey, and the Philippines—Public Law 89-324 [H.R. 7812], 79 Stat. 1214; 50 U.S.C. App. 1878cc-1878mm, approved November 5, 1965.

l. Republic of China—Public Law 89-398 [H.R. 7813], 80 Stat. 121; 50 U.S.C. App. 1878nn-1878ss, approved April 16, 1966.

m. Argentina, Brazil, Chile, Colombia, Federal Republic of Germany, Greece, Republic of Korea, Portugal, Spain, and Peru—Public Law 90-224 [H.R. 6167], 81 Stat. 729; 50 U.S.C. App. 1878tt-1878xx approved December 26, 1967.

n. Greece, Pakistan, Republic of Vietnam, and Turkey—Public Law 91-682 [H.R. 15728], 84 Stat. 2066; 50 U.S.C. App. 1878yy-1878zz-3, approved January 12, 1971.

o. Spain, Turkey, Greece, Republic of Korea and Italy—Public Law 92-270 [H.R. 9526], 86 Stat. 118; 50 U.S.C. App. 1878zz-4—1878zz-8, approved April 6, 1972.

p. Argentina, Republic of China, Colombia, Germany, Greece, Iran, Republic of Korea, Pakistan, the Philippines, Spain, and Venezuela—Public Law 94-457 [S. 3734], 90 Stat. 1938, approved October 5, 1976.

q. Brazil, Colombia, Ecuador, Greece, Indonesia, Republic of Korea, Mexico, Peru, Philippines, and Spain—Public Law 96-150 [H.R. 5163], 93 Stat. 1091, approved December 20, 1979.

b. Transfer of Certain Naval Vessels

Public Law 97-342 [H.R. 7115], 96 Stat. 1641, approved October 15, 1982

AN ACT To authorize the transfer of nine naval vessels to certain foreign governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the approval of the Congress required by section 7307(b)(1) of title 10, United States Code, is hereby granted for the sale under section 21 of the Arms Export Control Act (22 U.S.C. 2761) of a vessel of the United States Navy, as follows: the sale of one auxiliary dry dock of the ARD 12 class to the Government of Ecuador.

Sec. 2. (a) The approval of the Congress required by section 7307(b)(1) of title 10, United States Code, is hereby granted for the lease under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796–2796c) of vessels of the United States Navy, as follows:

(1) The lease of two patrol combatants of the Asheville class to the Government of Colombia.

(2) The lease of three fast patrol boats of the Osprey class to the Government of the Dominican Republic.

(3) The lease of one oceanographic research ship of the Conrad class to the Government of Mexico.

(4) The lease of one destroyer tender of the Arcadia class to the Government of Pakistan.

(5) The lease of one destroyer tender of the Dixie class to the Government of Turkey.

(b)(1) Except as provided in section 3, section 62 of the Arms Export Control Act (22 U.S.C. 2796a) shall not apply with respect to the leases described in subsection (a) of this section.

(2) The requirement contained in section 61(a)(3) of the Arms Export Control Act (22 U.S.C. 2796(a)(3)) shall not apply to a lease described in subsection (a) of this section which would otherwise be subject to that requirement; however, any expense of the United States in connection with any such lease shall be charged to the government to which the vessel is leased.

(3) Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of a vessel described in subsection (a) of this section may provide, as part or all of the consideration for the lease, for the maintenance, protection, repair, or restoration of the vessel by the lessee.

Sec. 3. The approval to transfer naval vessels granted by this Act shall expire at the end of the two-year period beginning on the date of the enactment of this Act, but a lease for any such vessel which is entered into before the end of that period may be renewed in accordance with this Act, subject to the reporting requirement of section 62 of the Arms Export Control Act.

c. Sale of Two Naval Vessels

Public Law 99-661 [S. 2638], 100 Stat. 4005, approved November 14, 1986

AN ACT To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SEC. 1372. SALE OF TWO NAVAL VESSELS

(a) AUTHORIZATION OF SALE TO TAIWAN.—The Secretary of the Navy is hereby authorized to sell two patrol gunboats of the Tacoma class to the Coordination Council for North American Affairs, representing the people on Taiwan, in accordance with section 7307(b)(1) of title 10, United States Code, and the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.)

(b) CONDITIONS.—A sale of a vessel under subsection (a)—

(1) shall be subject to such terms and conditions as the President may require; and

(2) shall be for a price not less than the value in United States dollars of the vessel involved

(c) RECOVERY OF UNITED STATES EXPENSES.—Any expense of the United States in connection with the transfer of a vessel sold under subsection (a) shall be charged to the purchaser

(d) EXPIRATION OF AUTHORITY.—The authority of the Secretary of the Navy under subsection (a) expires at the end of the two-year period beginning on the date of the enactment of this Act.

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1. Agricultural Trade Development and Assistance

a. Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480)

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a. Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) [1, 2]

Public Law 83–480 [S. 2475], 68 Stat. 454, 7 U.S.C. 1691-1736d, approved July 10, 1954, as amended by Public Law 84–25 [S. 752], 69 Stat. 44, approved April 25, 1955; Public Law 84–387 [S. 2253], 69 Stat. 721, approved August 12, 1955; Public Law 84–540 [H.R. 10875], 70 Stat. 188, approved May 28, 1956; Public Law 84–726 [H.R. 11356], 70 Stat. 555, approved July 18, 1956; Public Law 84–962 [S. 3903], 70 Stat. 988, approved August 3, 1956; Public Law 85–128 [S. 1314], 71 Stat. 345, approved August 13, 1957; Public Law 85–141 [S. 2130], 71 Stat. 355, approved August 14, 1957; Public Law 85–477 [H.R. 12181], 72 Stat. 261, approved June 30, 1958; Public Law 85–931 [S. 3420], 72 Stat. 1790, approved September 6, 1958; Public Law 86–108 [H.R. 7500], 73 Stat. 246, approved July 24, 1959; Public Law 86–341 [H.R. 8609], 733 Stat. 606, approved September 21, 1959; Public Law 86–472] H.R. 11510], 74 Stat. 134, approved May 14, 1960; Public Law 87–28 [S. 1027], 75 Stat. 64, approved May 4, 1961; Public Law 87–128 [S. 1643], 75 Stat. 294, approved August 8, 1961; Public Law 87–195 [S. 1983], 75 Stat. 424, approved September 4, 1961; Public Law 87–703 [H.R. 12391], 76 Stat. 605, approved September 27, 1962; Public Law 87–839 [S. 3389], 76 Stat. 1074, approved October 18, 1962; Public Law 88–205 [H.R. 7885], 77 Stat. 379, approved December 16, 1963; Public Law 88–638 [S. 2687], 78 Stat. 1035, approved October 8, 1964; Public Law 89–106 [H.R. 5508], 79 Stat. 431, approved August 4, 1965; Public Law 89–171 [H.R. 7750], 79 Stat. 653, approved September 6, 1965; Public Law 89–808 [H.R. 14929], 80 Stat. 1526, approved November 11, 1966; Public Law 90–436 [S. 2986], 82 Stat. 450, approved July 29, 1968; Public Law 91–524 [H.R. 18546], 84 Stat. 1358, approved November 30, 1970; Public Law 92–42 [H.R. 1161], 85 Stat. 99, approved July 1, 1971; Public Law 93–86 [S. 1888], 87 Stat. 237, approved August 10, 1973; Public Law 94–161 [H.R. 9005], 89 Stat. 849, approved December 20, 1975; Public Law 95–88 [H.R. 6714], 91 Stat. 533, approved August 3, 1977; Public Law 95–113 [S. 275], 91 Stat. 913, approved September 29, 1977; Public Law 95–424 [International Development and Food Assistance Act of 1978, H.R. 12222], 92 Stat. 937, approved October 6, 1978; Public Law 96–53 [International Development Cooperation Act of 1979, H.R. 3324], 93 Stat. 359, approved August 14, 1979; Public Law 96–72 [Export Administration Act of 1979, S. 737], 93 Stat. 503 at 536, approved September 29, 1979; Public Law 96–470 [Congressional Reports Elimination Act of 1980, H.R. 6686], 94 Stat. 2237 at 2246, approved October 19, 1980; Public Law 96–533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3151, approved December 16, 1980; Public Law 97–98 [S. 884], 95 Stat. 1213 at 1274, approved December 22, 1981; Public Law 97–113 [International Security and Development Cooperation Act of 1981, S. 1196], 95 Stat. 1519 at 1537, approved December 29, 1981; Public Law 98–473 [Continuing Appropriations Act, 1985, H.J. Res. 648], 98 Stat. 1837 at 2194, approved October 12, 1984; Public Law 98–623 [H.R. 6342], 98 Stat. 3394, approved November 8, 1984, Public Law 99–83 [S. 960], 99 Stat. 190, approved August 8, 1985; Public Law 99–198 [H.R. 2100], 99 Stat. 1354, approved December

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[1] The Agricultural Trade Development and Assistance Act of 1954, as amended, was substantially changed and amended by sec. 2 of the Food for Peace Act of 1966, except for secs. 301 and 303, which were retained without alteration. For the remainder of the text of the Food for Peace Act of 1966, see page 1042.

[NOTE.—In signing the Food for Peace bill on November 11, 1966, the President referred to it as the "Food for Freedom program".]

The Food for Peace Act of 1966 was effective as of January 1, 1967, except that sec. 4 took effect November 11, 1966.

[2] Prohibitions against furnishing assistance under this Act were contained in sec. 481, and subsecs. (i), (j), (n), (s), and (t) of sec. 620 of the Foreign Assistance Act of 1961, as amended. See pages 120 and 200. A further prohibition was contained in the Agricultural Environmental and Consumer Protection Appropriation Act, 1975, December 31, 1974, Public Law 93-563, 88 Stat. 1830.

23, 1985; Public Law 100–202 [Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848] 102 Stat. 1107, approved August 23, 1988; and by Public Law 100–576 [Bangladesh Disaster Assistance Act of 1988, H.R. 5389], 102 Stat. 2897, approved October 31, 1988

AN ACT To increase the consumption of United States agricultural commodities in foreign countries, to improve the foreign relations of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Development and Assistance Act of 1954."

Sec. 2.[3] The Congress hereby declares it to be the policy of the United States to expand international trade; to develop and expand export markets for United States agricultural commodities; to use the abundant agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in the developing countries, with particular emphasis on assistance to those countries that are determined to improve their own agricultural production; [4] to use foreign currencies accruing under this Act to foster and encourage the development of private enterprise in developing countries; to enhance food security in developing countries through local food production; and to promote in other ways the foreign policy of the United States. In furnishing food aid under this Act, the President shall—

(1) give priority consideration, in helping to meet urgent food needs abroad, to making available the maximum feasible volume of food commodities (with appropriate regard to domestic price and supply situations) required by those countries most seriously affected by food shortages and by inability to meet immediate food requirements on a normal commercial basis;

(2) continue to urge all traditional and potential new donors of food, fertilizer, or the means of financing these commodities to increase their participation in efforts to address the emergency and longer term food needs of the developing world;

(3) relate United States assistance to efforts by aid-receiving countries to increase their own agricultural production, with emphasis on development of small, family farm agriculture, and improve their facilities for transportation, storage, and distribution of food commodities;

(4) give special consideration to the potential for expanding markets for America's agricultural abundance abroad in the allocation of commodities or concessional financing; and

(5) give appropriate recognition to and support of a strong and viable American farm economy in providing for the food security of consumers in the United States and throughout the world.[5]

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[3] 7 U.S.C. 1691. Sec. 2 was amended and restated by sec. 2(a) of Public Law 89–808 (80 Stat. 1526), to include the use of abundant agricultural productivity of the U.S. to combat hunger and malnutrition.

[4] The words from this point through the words "local food production" were added by sec. 1111(a) of the Food Security Act of 1985 (Public Law 99–198, 99 Stat. 1474).

[5] The sentence commencing with "In furnishing food aid * * *" was added by sec. 201 of the International Development & Food Assistance Act of 1975 (Public Law 94–161, 89 Stat. 850).

Sec. 3.[6] Pursuant to the World Food Conference recommendation that donor countries provide a total of at least ten million tons of food assistance to needy nations annually, the President is urged to maintain a significant United States contribution to this goal and to encourage other countries to maintain and increase their contributions as well.

TITLE I

Sec. 101.[7] (a) In order to carry out the policies and accomplish the objectives set forth in section 2 of this Act, the President is authorized to negotiate and carry out agreements with friendly countries to provide for the sale of agricultural commodities—

(1) for dollars on credit terms;

(2) to the extent that sales for dollars under the terms applicable to such sales are not possible, for foreign currencies on credit terms and on terms that permit conversion to dollars at the exchange rate applicable to the sales agreement; or

(3) for foreign currencies for use under section 108 on terms that permit conversion to dollars.

(b)(1) Except as provided in paragraph (2), for each of the fiscal years 1986 through 1990 sales for foreign currencies for use under section 108 under agreements entered into under this title shall be made at an annual level of not less than 10 percent of the aggregate value of all sales of agricultural commodities under this title. For each of the fiscal years 1988 through 1990, each agreement entered into under this title shall provide for some sale for foreign currencies for use under section 108, [except for agreements with a country the President determines is incapable of participating in section 108] unless the President determines that the level of agricultural commodities furnished under title I will be significantly reduced as a result of this sentence.[8]

(2) The President may reduce the minimum level of sales for foreign currencies, or enter into sales agreements not providing for sales for foreign currencies for use under section 108,[9] required under paragraph (1) during any fiscal year in which the President determines that the level of agricultural commodities furnished under this title will be significantly reduced as a result of compliance with the requirement under paragraph (1).

(c) Agreements for sales for foreign currency in a developing country for use under section 108 may not be entered into to the extent that such agreements would generate currency in amounts that cannot be productively used and absorbed in the private sector of such country.

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[6] 7 U.S.C. 1691a. Sec. 3 was added by sec. 202 of Public Law 94-161 (89 Stat. 851).

[7] 7 U.S.C. 1701. Sec. 101 was amended and restated by sec. 1111(c) of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1474). Sec. 101 previously read as follows:

"Sec. 101. In order to carry out the policies and accomplish the objectives set forth in section 2 of this Act, the President is authorized to negotiate and carry out agreements with friendly countries to provide for the sale of agricultural commodities for dollars on credit terms or to the extent that sales for dollars under the terms applicable to such sales are not possible, for foreign currencies on credit terms and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement."

[8] The last sentence of paragraph (1) was added by sec. 8 of the Agricultural Aid and Trade Missions Act (sec. 101(o) of the Continuing Appropriations Act, 1988, Public Law 100-202, 101 Stat. 1329-447).

[9] The phrase beginning "or enter into" and ending at this point was added by sec. 8 of the Agricultural Aid and Trade Missions Act (sec. 101(o) of the Continuing Appropriations Act, 1988, Public Law 100-202, 101 Stat 1329-447).

(d) Sales for foreign currencies for use under section 108 under agreements entered into under this title shall be made on such terms and conditions as are specified in such agreements.

Sec. 102.[10] For the purpose of carrying out agreements concluded under this Act the Commodity Credit Corporation is authorized to finance the sale and exportation of agricultural commodities whether from private stocks or from stocks of the Commodity Credit Corporation [11] and, when requested by the purchaser of such commodities, may serve as the purchasing or shipping agent, or both, in arranging the purchasing or shipping of such commodities.[12]

Sec. 103.[13] In exercising the authorities conferred upon him by this title, the President shall—

(a) [14] take into account efforts of friendly countries to help themselves toward a greater degree of self-reliance, including efforts to increase their own agricultural production, especially through small, family farm agriculture, to improve their facilities for transportation, storage, and distribution of food commodities, and to reduce their rate of population growth;

(b) [15] except where the President determines that it would be inconsistent with the objectives of this Act, determine the amount of foreign currencies needed for the uses specified in subsections (a), (b), (e), and (h) of section 104, in section 108,[16] and in title III, and the agreements for credit sales shall provide for payment of such amounts in dollars or in foreign currencies upon delivery of the agricultural commodities; and such payment may be considered as an advance payment of the earliest installments;

(c) take reasonable precautions to safeguard usual marketings of the United States and to assure that sales under this title will not unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries;

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[10] 7 U.S.C. 1702. Sec. 102 was amended by the following: Public Law 84–25 (69 Stat. 44); Public Law 88–638 (78 Stat. 1035); Public Law 89–808 (80 Stat. 1526); Public Law 90–436 (82 Stat. 450).

[11] Two provisos (added by sec. 9 of Public Law 90–436) which had previously appeared at this point and discussed restrictions concerning the financing of the sale and exportation of agricultural commodities by the Commodity Credit Corporation, were struck out by Sec. 201(a) of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 545).

[12] The words to this point beginning with "and when requested by the purchaser" were added by sec. 1201 of the Food and Agriculture Act of 1977 (91 Stat. 955).

[13] 7 U.S.C. 1703. Sec. 103 was amended by Public Law 84–387 (69 Stat. 721); Public Law 84–540 (70 Stat. 201); Public Law 84–962 (70 Stat. 988); Public Law 85–128 (71 Stat. 345); Public Law 85–931 (72 Stat. 1790); Public Law 86–341 (73 Stat. 606); Public Law 87–28 (75 Stat. 64); Public Law 85–128 (75 Stat. 306); Public Law 88–638 (78 Stat. 1035); Public Law 89–808 (80 Stat. 1526); Public Law 90–436 (82 Stat. 450).

[14] Subsec. (a) was amended by sec. 203 of Public Law 94–161 (89 Stat. 851). It formerly read: "take into account efforts of friendly countries to help themselves toward a greater degree of self-reliance, including efforts to meet their problems of food production and population growth;".

[15] Subsec. (b), as amended by sec. 4 of Public Law 90–436, sec. 203 of Public Law 94–161 (89 Stat. 851), sec. 211(b) of Public Law 95–88 (91 Stat. 551), and sec. 201(b)(2)(B) of Public Law 95–424 (92 Stat. 941), was amended and restated by sec. 401(2) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1537). This text is nearly identical to the proviso contained in the former language of subsec. (b) but does not include text which previously directed the President to provide for a progressive transition from sales for foreign currencies to sales for dollars (or when this was not possible, sales for foreign currencies on certain credit terms) by Dec. 31, 1971.

[16] Sec. 111(d) of the Food Security Act of 1985 (Public Law 99–198, 99 Stat. 1475), added this reference to sec. 108.

(d) makes sales agreements only with those countries which he determines to be friendly to the United States: *Provided*, That the President shall periodically review the status of those countries which are eligible under this subsection and report the results of such review to the Congress. As used in this Act, "friendly country" shall not include any country or area dominated or controlled by a foreign government or organization controlling a world Communist movement.[17] Notwithstanding any other Act, the President may enter into agreements for the sale of agricultural commodities [18] under title I of this Act with countries which fall within the definition of "friendly country" for the purpose of such sales and no sales under this Act shall be made with any country if the President finds such country is (a) an aggressor, in a military sense, against any country having diplomatic relations with the United States, or (b) using funds, of any sort, from the United States for purposes inimical to the foreign policies of the United States;

(e) take appropriate steps to assure that private trade channels are used to the maximum extent practicable both with respect to sales from privately owned stocks and with respect to sales from stocks owned by the Commodity Credit Corporation and that small business has adequate and fair opportunity to participate in sales made under the authority of this Act;

(f) [19] give consideration to the development and expansion of markets for United States agricultural commodities and local foodstuffs by increasing the effective demand for agricultural commodities through the support of measures to stimulate equitable economic growth in recipient countries, with appropriate emphasis on developing more adequate storage, handling, and food distribution facilities;

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[17] Two other parts to this definition of "friendly country" which formerly appeared at this point, were struck out. The first, deleted by sec. 401(3) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1537), concerned "for the purpose only of sales of agricultural commodities for foreign currencies under title I of this Act any country or area dominated by a Communist government". The second, deleted by sec. 201(b) of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 545) read as follows:

", or (3) for the purpose only of sales of agricultural commodities under title I of this Act, any nation which sells or furnishes or permits ships or aircraft under its registry to transport to or from Cuba or North Vietnam (excluding United States installations in Cuba) any equipment, materials, or commodities so long as they are governed by a Communist regime: *Provided*, That this exclusion from the definition of "friendly country" may be waived by the President if he determines that such waiver is in the national interest and reports such determination to the Congress within 10 days of the date of such determination, or (4) for the purposes only of sales under title I of this Act the United Arab Republic, unless the President determines that such sale is in the national interest of the United States. No sales to the United Arab Republic shall be based upon the requirements of that nation for more than one fiscal year. The President shall keep the President of the Senate and the Speaker of the House of Representatives fully and currently informed with respect to sales made to the United Arab Republic under title I of this Act."

[18] Sec. 1111(d)(2) of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1475) deleted the words "for dollars on credit terms" at this point.

[19] Subsec. (f) was amended and restated by sec. 201 of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 368). It formerly read as follows:

"(f) give special consideration to the development and expansion of foreign markets for United States agricultural commodities, with appropriate emphasis on more adequate storage, handling, and food distribution facilities as well as long-term development of new and expanding markets by encouraging economic growth;".

(g) obtain commitments from purchasing countries that will prevent resale or transshipment to other countries, or use for other than domestic purposes, of agricultural commodities purchased under this title, without specific approval of the President;

(h) obtain rates of exchange applicable to the sale of commodities under such agreements which are not less favorable than the highest of exchange rates legally obtainable in the respective countries and which are not less favorable than the highest of exchange rates obtainable by any other nation;

(i) promote progress toward assurance of an adequate food supply by encouraging countries with which agreements are made to give higher emphasis to the production of food crops than to the production of such nonfood crops as are in world surplus;

(j) exercise the authority contained in title I of this Act to assist friendly countries to be independent of domination or control by any world Communist movement. Nothing in this Act shall be construed as authorizing sales agreements under title I with any government or organization controlling a world Communist movement or with any country with which the United States does not have diplomatic relations;

(k) whenever practicable require upon delivery that not less than 5 per centum of the purchase price of any agricultural commodities sold under title I of this Act be payable in dollars or in the types or kinds of currencies which can be converted into dollars;

(l) [20] obtain commitments from purchasing countries to publicize widely to their people, by public media and other means, that the commodities are being provided on a concessional basis through the friendship of the American people as food for peace;

(m) except as provided in section 108,[16] require foreign currencies to be convertible to dollars to the extent consistent with the effectuation of the purposes of this Act, but in any event to the extent necessary to (1) permit that portion of such currencies made available for payment of United States obligations to be used to meet obligations or charges payable by the United States or any of its agencies to the government of the importing country or any of its agencies, and (2) in the case of excess currency countries, assure convertibility by sale to American tourists, or otherwise, of such additional amount (up to twenty-five per centum of the foreign currencies received pursuant to each agreement entered into after the effective date of the Food for Peace Act of 1966) as may be necessary to cover all normal expenditures of American tourists in the importing country. In carrying out this subsection, the President shall require that foreign currencies to be used under section 108 that are acquired under an agreement for the sale of commodities be convertible to dollars during the period beginning 10 years after the date of the last delivery of such commodities and ending 30 years after the date of such delivery. Such agreement for sale shall establish a schedule for such conversion but need not specify the exchange rate for such conversion;[21]

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[20] Text previously appearing at this point which directed the President to obtain commitments from friendly purchasing countries that would insure title I food commodities sold for foreign currencies would be identified at the distribution or sale location as being provided on a concessional basis "through the generosity of the people of the United States of America," was struck out by sec. 401(4) of Public Law 97-113 (95 Stat. 1537).

(n) take maximum precautions to assure that sales [22] under this Act shall not displace any sales of United States agricultural commodities which would otherwise be made; [23]

(o) [24] take steps to assure that the United States obtains a fair share of any increase in commercial purchases of agricultural commodities by the purchasing country and that commercial supplies are available to meet demands developed through programs carried out under this Act;

(p) [24] except as provided in sec. 108,[16] assure convertibility at such uniformly applied exchange rates as shall be agreed upon of up to 50 per centum of the foreign currencies received pursuant to each agreement by sale to United States or purchasing country contractors for payment of wages earned in the development and consummation of works of public improvement in the purchasing country;

(q) [24] except as provided in sec. 108,[16] assure convertibility of up to 50 per centum of the foreign currencies received pursuant to each agreement by sale to United States importers for the procurement of materials or commodities in the purchasing country; and

(r) [25] give favorable consideration in the allocation of commodities under this title to countries promoting the private sector through the use of section 108.

Sec. 104.[26] Notwithstanding any other provision of law, the President may use or enter into agreements with foreign countries or international organizations to use the foreign currencies, including principal and interest from loan repayments, which accrue in connection with sales for foreign currencies under agreements for such sales entered into prior to January 1, 1972 [27] for one or more of the following purposes:

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[21] Sec. 1111(d)(3)(C) of the Food Security Act of 1985 (Public Law 99–198, 99 Stat. 1475), added the words beginning with "in carrying out this subsection" to this point.

[22] Sec. 1111(d)(4) of the Food Security Act of 1985 (Public Law 99–198, 99 Stat. 1475), deleted the words "for dollars on credit terms" at this point.

[23] Sec. 1111(d)(4) of the Food Security Act of 1985 (Public Law 99–198, 99 Stat. 1475), deleted the words "for cash dollars" at this point.

[24] Subsecs. (o), (p) and (q) were added by sec. 5 of Public Law 90–436 (82 Stat. 450). Subsec. (o) was amended by Public Law 93–86 (87 Stat. 237) by adding after "country" the following: "and that commercial supplies are available to meet demands developed through programs carried out under this Act."

[25] Subsec. (r) was added by sec. 9 of the Agricultural Aid and Trade Missions Act (Section 101(o) of the Continuing Appropriations for 1988, Public Law 100–202, 101 Stat 1329–448).

[26] 7 U.S.C. 1704. Sec. 104 was amended by Public Law 84–726 (70 Stat. 564); Public Law 84–962 (70 Stat. 988); Public Law 85–128 (71 Stat. 345); Public Law 85–141 (71 Stat. 365); Public Law 85–477 (72 Stat. 275); Public Law 85–931 (72 Stat. 1790); Public Law 86–108 (73 Stat. 258); Public Law 86–341 (73 Stat. 607); Public Law 87–128 (75 Stat. 306); Public Law 87–195 (75 Stat. 443); Public Law 87–839 (76 Stat. 1074); Public Law 88–205 (77 Stat. 386); Public Law 88–638 (78 Stat. 1035); Public Law 89–106 (79 Stat. 432); Public Law 89–808 (80 Stat. 1528); Public Law 90–436 (82 Stat. 450); Public Law 91–524 (84 Stat. 1379).

[27] The words "agreements for such sales entered into prior to January 1, 1972," were substituted in lieu of the words "this title" by sec. 401(5)(A) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1537).

(a) For payment of United States obligations (including obligations entered into pursuant to other legislation);

(b) For carrying out programs of United States Government agencies to—

(1) help develop new markets for United States agricultural commodities (including wood and processed wood products of the United States) [28] on a mutually benefiting basis. From sale proceeds and loan repayments under this title not less than the equivalent of 5 per centum of the total sales made each year under this title shall be set aside in the amounts and kinds of foreign currencies specified by the Secretary of Agriculture and made available in advance for use as provided by this paragraph over such period of years as the Secretary of Agriculture determines will most effectively carry out the purpose of this paragraph: *Provided,* That the Secretary of Agriculture may release such amounts of the foreign currencies so set aside as he determines cannot be effectively used for agricultural market development purposes under this section, except that no release shall be made until the expiration of thirty days following the date on which notice of such proposed release is transmitted by the President to the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations [29] and to the House Committee on Agriculture and the House Committee on International Relations,[30] if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session. Provision shall be made in sale and loan agreements for the convertibility of such amount of the proceeds thereof (not less than 2 per centum) as the Secretary of Agriculture determines to be needed to carry out the purpose of this paragraph in those countries which are or offer reasonable potential of becoming dollar markets for United States agricultural commodities. Such sums shall be converted into the types and kinds of foreign currencies as the Secretary deems necessary to carry out the provisions of this paragraph and such sums shall be deposited to a special Treasury account and shall not be made available or expended except for carrying out the provisions of this paragraph. Notwithstanding any other provision of law, if sufficient foreign currencies for carrying out the purpose of this paragraph in such countries are not otherwise available, the Secretary of Agriculture is authorized and directed to enter into agreements with such countries for the sale of agricultural commodities in such amounts as the Secretary of Agriculture determines to be adequate and for the use of the proceeds to carry out the purpose of this paragraph.

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[28] Sec. 4401 of the Agricultural Competitiveness and Trade Act of 1988 (Public Law 100-418, 102 Stat. 1400) added the parenthetical text.

[29] The words "and the Senate Committee on Foreign Relations" were added by sec. 204(2) of Public Law 94-161 (89 Stat. 852).

[30] The words "and the House Committee on International Relations" were added by sec. 204(1) of Public Law 94-161 (89 Stat. 852).

In carrying out agricultural market development activities, nonprofit agricultural trade organizations shall be utilized to the maximum extent practicable. The purpose of this paragraph shall include such representation of agricultural industries as may be required during the course of discussions on trade programs relating either to individual commodities or groups of commodities;

(2)[31] finance with not less than 2 per centum of the total sales proceeds received each year in each country activities to assist international educational and cultural exchange and to provide for the strengthening of the resources of American schools, colleges, universities, and other public and nonprofit private educational agencies for international studies and research under the programs authorized by title VI of the National Defense Education Act, the Mutual Educational and Cultural Exchange Act of 1961, the International Education Act of 1966, the Higher Education Act of 1965, the Elementary and Secondary Education Act of 1965, the National Foundation on the Arts and the Humanities Act of 1965, and the Public Broadcasting Act of 1967;

(3) collect, collate, translate, abstract and disseminate scientific and technological information and conduct research and support scientific activities overseas including programs and projects of scientific cooperation between the United States and other countries such as coordinated research against diseases common to all of mankind or unique to individual regions of the globe, and promote and support programs of medical and scientific research, cultural and educational development, family planning health, nutrition, and sanitation;[32]

(4) acquire by purchase, lease, rental, or otherwise, sites and buildings and grounds abroad, for United States Government use including offices, residence quarters, community and other facilities, and construct, repair, alter, and furnish such buildings and facilities;[33]

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[31] Subsec. (2) was amended by sec. 3 of Public Law 90–436. It formerly read as follows:

"(2) finance international educational and cultural exchange activities under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.);".

For text of the Mutual Educational and Cultural Exchange Act of 1961, as amended, see vol. II, sec. E.

[32] See also sec. 5(g) of the International Health Research Act of 1960, Public Law 86–610 (74 Stat. 368, approved July 12, 1960, 22 U.S.C. 2103), which authorized, subject to sec. 1415 of the Supplemental Appropriation Act, 1953, the use of title I foreign currencies to advance health science activities. (Sec. 1415 of the Supplemental Appropriations Act, 1953, now codified at 31 U.S.C. 1306. For text, see page 600.)

Supplemental Appropriations Act, 1977 (91 Stat. 66) stated:

"For necessary expenses as authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended $30,000,000, for payment by the Secretary of the Treasury of the equivalent of $30,000,000 Israeli pounds to be obtained by the prepayment of a portion of Israel's local currency debt to the United States, as the United States share of the endowment of the Israel-United States Binational Industrial Research and Development Foundation, to remain available until expended."

[33] See also sec. 209(a) of Public Law 87–651, as amended (76 Stat. 523, 10 U.S.C. 2681), which provided in part as follows:

"(a) In addition to family housing and to community facilities that otherwise may be constructed or acquired by the Department of Defense, the Secretary of Defense may, with the ap-

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(5) finance under the direction of the Librarian of Congress, in consultation with the National Science Foundation and other interested agencies, (A) programs outside the United States for the analysis and evaluation of foreign books, periodicals, and other materials to determine whether they would provide information of technical or scientific significance in the United States and whether such books, periodicals, and other materials are of cultural or educational significance, (B) the registry, indexing, binding, reproduction, cataloging, abstracting, translating, and dissemination of books, periodicals, and related materials determined to have such significance; and (C) the acquisition of such books, periodicals, and other materials and the deposit thereof in libraries and research centers in the United States specializing in the areas to which they relate;

(c) * * * [Repealed—1975] [34]

(d) For assistance to meet emergency or extraordinary relief requirements other than requirements for food commodities; *Provided,* That not more than a total amount equivalent to $10,000,000 [35] may be made available for this purpose during any fiscal year;

(e) For use to the maximum extent under the procedures established by such agency as the President shall designate for loans to United States business firms (including cooperatives) and branches, subsidiaries, or affiliates of such firms for business development and trade expansion in such countries, including loans for private home construction, and for loans to domestic or foreign firms (including cooperatives) for the establishment of facilities for aiding in the utilization, distribution, or otherwise increasing the consumption of, and markets for, United States agricultural products: *Provided, however,* That no such loans shall be made for the manufacture of any products intended to be exported to the United States in competi-

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proval of the President, construct, or acquire by lease or otherwise, family housing to be occupied as public quarters, and community facilities, in foreign countries by using foreign currencies that have a value of not more than $250,000,000 and that were acquired under sections 1691–1724 of title 7 or through other commodity transactions of the Commodity Credit Corporation.

"(b) The Department of Defense shall pay the Commodity Credit Corporation an amount not to exceed $6,000,000 a year until the amount due for foreign currencies used for housing constructed or acquired under this section has been liquidated."

Sec. 420 of the Act of Aug. 10, 1959 (73 Stat. 324), provided as follows:

"In carrying out in a foreign country any project authorized by this Act or any other Military Construction Act heretofore or hereafter enacted, currencies of such country acquired pursuant to the provisions of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) Eighty-third Congress shall, to the extent available and feasible, be used in lieu of dollars. The Department of Defense shall reimburse the Commodity Credit Corporation for any foreign currencies so utilized in carrying out such projects." (7 U.S.C. 1704b)

Sec. 509 of the Act of June 8, 1960 (74 Stat. 186), provided as follows:

"Notwithstanding the provisions of any other law, at least 75 per centum of the total cost of any family housing project or community facility hereafter constructed or acquired in any foreign country by the Department of Defense or any military department shall be paid for from foreign currencies acquired by the Commodity Credit Corporation pursuant to the provisions of the Agricultural Trade Development and Assistance Act of 1954; except that the following projects authorized pursuant to this Act shall not be subject to this requirement: * * * (list of projects omitted) (7 U.S.C. 1704b note)."

[34] Subsec. (c) was repealed by sec. 204(3) of Public Law 94–161 (89 Stat. 852).

[35] This figure was increased from $5,000,000 to $10,000,000 by sec. 402 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1537).

tion with products produced in the United States and due consideration shall be given to the continued expansion of markets for United States agricultural commodities or the products thereof. Foreign currencies may be accepted in repayment of such loans;

(f) To promote multilateral trade and agricultural and other economic development, under procedures, established by the President, by loans or by use in any other manner which the President may determine to be in the national interest of the United States, particularly to assist programs of recipient countries designed to promote, increase, or improve food production, processing, distribution, or marketing in food-deficit countries friendly to the United States, for which purpose the President may utilize to the extent practicable the services of nonprofit voluntary agencies registered with and approved by the Agency for International Development: [36] *Provided,* That no such funds may be utilized to promote religious activities;

(g) For the purchase of goods or services for other friendly countries;

(h) For financing, at the request of such country, programs emphasizing maternal welfare, child health and nutrition, and activities, where participation is voluntary, related to the problems of population growth, under procedures established by the President through any agency of the United States, or through any local agency which he determines is qualified to administer such activities. Not less than 5 per centum of the total sales proceeds received each year shall, if requested by the foreign country, be used for voluntary programs to control population growth; [37]

(i) For paying, to the maximum extent practicable, the costs outside the United States of carrying out the program authorized in section 406 of this Act;

(j) For sale for dollars to United States citizens and nonprofit organizations for travel or other purposes of currencies determined to be in excess of the needs of departments and agencies of the United States for such currencies. The United States dollars received from the sale of such foreign currencies shall be deposited to the account of Commodity Credit Corporation; and

(k) [38] For paying, to the maximum extent practicable, the costs of carrying out programs for the control of rodents, insects, weeds, and other animal or plant pests;

Provided, That—

(1) Section 1415 of the Supplemental Appropriation Act, 1953, shall apply to currencies used for the purposes specified in subsections (a) and (b), and in the case of currencies to be used for the purposes specified in paragraph (2) of subsection (b) the Appropriation Act may specifically authorize the use of such currencies and

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[36] The reference to the Agency for International Development was substituted in lieu of a reference to the Advisory Committee on Voluntary Foreign Aid by sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 366).

[37] This sentence was added by sec. 2(a) of Public Law 90-436 (82 Stat. 450).

[38] Subsec. (k) was added by sec. 6 of Public Law 90-436.

shall not require the appropriation of dollars for the purchase of such currencies.[39]

(2) Section 1415 of the Supplemental Appropriation Act, 1953, shall apply to all foreign currencies used for grants under subsections (f) and (g), to not less than 10 per centum of the foreign currencies which accrue pursuant to agreements entered into on or before December 31, 1964, and to not less than 20 per centum in the aggregate of the foreign currencies which accrue pursuant to agreements entered into thereafter: *Provided, however,* That the President is authorized to waive such applicability of section 1415 in any case where he determines that it would be inappropriate or inconsistent with the purposes of this title.

(3) No agreement or proposal to grant any foreign currencies[40] or to use (except pursuant to Appropriation Act) and principal or interest from loan repayments under this section shall be entered into or carried out until the expiration of thirty days following the date on which such agreement or proposal is transmitted by the President to the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations[41] and to the House Committee on Agriculture and the House Committee on International Relations,[42] if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.

(4) Any loan made under the authority of this section shall bear interest at such rate as the President may determine but not less than the cost of funds to the United States Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States having maturity comparable to the maturity of such loans, unless the President shall in specific instances after consultation with the advisory committee established under section 407 designate a different rate:

Provided, further, That paragraphs (2), (3), and (4) of the foregoing proviso shall not apply in the case of any nation where the foreign currencies or credits owned by the United States and available for use by it in such nation are determined by the Secretary of the Treasury to be in excess of the normal requirements of the departments and agencies of the United States for expenditures in such nations for the fiscal years following the fiscal year in which such determination is made. The amount of any such excess shall be devoted to the extent practicable and without regard to paragraph (1) of the foregoing proviso, to the acquisition of sites, buildings, and grounds under paragraph (4) of subsection (b) of this section and to assist such nation in undertaking self-help measures to increase its production of agricultural commodities and its facilities for storage and distribution of such commodities. Assistance under the foregoing provision shall be limited to self-help measures additional to those which would be undertaken without such assistance. Upon the determination by the Secretary of the Treasury that such an excess exists with respect to any nation, the President shall advise the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations[41] and the House Committee on Agriculture and the House Committee on International Relations[42] of such determination; and shall thereafter report to each such Committee as often as may be necessary to keep such Committee advised as to the extent of such excess, the purposes for which it is used or proposed to be used, and the effects of such use.

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[39] Sec. 1415 of the Supplemental Appropriations Act, 1953, was codified at 31 U.S.C. 1306. For text, see page 600. The final clause of this paragraph was added by sec. 702 of the Agricultural Act of 1970 (Public Law 91-524, 84 Stat. 1379).

[40] The phrase, "(except as provided in subsection (c) of this section)," which previously appeared at this point, was struck out by sec. 401(5)(B) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1537).

[41] The words "and the Senate Committee on Foreign Relations" were added by sec. 204(2) of Public Law 94-161 (89 Stat. 852).

[42] The words "and the House Committee on International Relations" were added by sec. 204(1) of Public Law 94-161 (89 Stat. 852).

> NOTE.—See Public Law 89-677, use of reserved foreign currencies, page 601.
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> Section 507 of the Public Works for Water, Pollution Control, and Power Development and Atomic Energy Commission Appropriation Act, 1970 (Public Law 91-144, 83 Stat. 338), provided as follows:
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> "Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchange allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury."

Sec. 105.[43] Foreign currencies received pursuant to this Act shall be deposited in a special account to the credit of the United States and shall be used only pursuant to sections 104 and 108,[44] and any department or agency of the Government using any of such currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used. The President shall utilize foreign currencies received pursuant to this Act in such manner as will, to the maximum extent possible, reduce any deficit in the balance of payments of the United States.

Sec. 106.[45] (a)(1)[46] Payment by any friendly country for commodities purchased for dollars on credit shall be upon terms as favorable to the United States as the economy of such country will permit. Payment for such commodities shall be in dollars with interest at such rates as the Secretary may determine but not less than the minimum rate required by section 122(b) of the Foreign Assistance Act of 1961 [47] for loans made under that section. Payment may be made in reasonable annual amounts over periods of not to exceed twenty years from the date of the last delivery of commodities in each calendar year under the agreement, except that the date for beginning such annual payment may be deferred for a period not later than two years after such date of last delivery, and interest shall be computed from the date of such last delivery. Delivery of such commodities shall be made in annual installments for not more than ten years following the date of the sales agreement and subject to the availability of the commodities at the time delivery is to be made.

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[43] 7 U.S.C. 1705. Sec. 105 was amended by Public Law 88-205 (77 Stat. 390); further amended and restated by Public Law 89-808 (80 Stat. 1532).

[44] Reference to sec. 108 was added by sec. 1111(e) of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1476).

[45] 7 U.S.C. 1706. Sec. 106 was amended by Public Law 84-387 (69 Stat. 721); Public Law 87-128 (75 Stat. 307); Public Law 88-205 (77 Stat. 390); Public Law 89-808 (80 Stat. 1532).

[46] Paragraph designation "(1)" and a new par. (2) were added by sec. 401(6) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1537).

(2)[46] Payment by any friendly country for commodities purchased for foreign currencies on credit terms and on terms which permit conversion to dollars shall be upon terms no less favorable to the United States than those for development loans made under section 122 of the Foreign Assistance Act of 1961.

(3) [48] Payment for sales made for foreign currencies that are to be used under section 108 under an agreement entered into under this title shall be made on such terms as are specified in such agreement.

(b)(1) [49] Agreements hereunder for the sale of agricultural commodities for dollars on credit terms shall include provisions to assure that the proceeds from the sale of the commodities in the recipient country are used for such economic development purposes as are agreed upon in the sales agreement or any amendment thereto. In negotiating such agreements with recipient countries, the United States shall emphasize the use of such proceeds for purposes which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries.[50]

(2) [49] Greatest emphasis shall be placed on the use of such proceeds to carry out programs of agricultural development, rural development, nutrition, and population planning, and to carry out the program described in section 406(a)(1) of this Act, in those countries which are undertaking self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with section 109 of this Act, and which programs are directed at and likely to achieve the policy objectives of sections 103 and 104 of the Foreign Assistance Act of 1961 and are consistent with the policy objectives of this Act, pursuant to agreements between the United

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[47] The reference to sec. 122(b) of the FA Act of 1961 was substituted in lieu of a reference to sec. 201 by sec. 102(b)(2)(C) of the International Development and Food Assistance Act of 1978 (92 Stat. 941).

[48] Paragraph (3) was added by sec. 1111(f) of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1475).

[49] Paragraph designation "(1)" and new pars. (2) and (3) were added by sec. 205 of Public Law 94-161 (89 Stat. 852).

[50] This sentence was added by sec. 205(2) of Public Law 94-161 (89 Stat. 852).

States and foreign governments under which uses of such proceeds shall be made for such purposes.[51]

(3)[49] In entering into agreements for the sale of agricultural commodities for dollars on credit terms under this title, priority shall be given to countries which agree to use the proceeds from the sale of the commodities in accordance with the country's agricultural development plan which—

(A) is designed to increase the access of the poor in the recipient country to an adequate, nutritious, and stable food supply;

(B) provides for such objectives as—

(i) making farm production equipment and facilities available to farmers,

(ii) credit on reasonable terms and conditions for small farmers, and

(iii) farm extension and technical information services designed to improve the marketing, storage, transportation, and distribution system for agricultural commodities and to develop the physical and institutional infrastructure supporting the small farmer;

(C) provides for participation by the poor, insofar as possible, in the foregoing at the regional and local levels; and

(D) is designed to reach the largest practicable number of farmers in the recipient country.

(4)(A)[52] Notwithstanding any other provision of this subsection, agreements under this title for the sale of agricultural commodities for dollars on credit terms may provide that proceeds from the sale of the commodities in the recipient country shall be used for such private sector development activities as are mutually agreed upon by the United States and the recipient government.

(B) Proceeds used for private sector development activities pursuant to this paragraph shall be deposited in jointly programmed accounts to be loaned by the recipient government to one or more financial intermediaries operating within the country for use by those financial intermediaries for loans to private individuals, private and voluntary organizations, corporations, cooperatives, and other entities within such country. In the case of a cooperative or private and voluntary organization, proceeds may be granted to defray the startup costs of becoming a financial intermediary. Such proceeds shall not be used to promote the production of commodities or the products thereof that will compete, as determined by the President, in world markets with similar commodities or the products thereof produced in the United States.

Sec. 107.[53] (a) It is also the policy of the Congress to stimulate and maximize the sale of United States agricultural commodities for dollars through the private trade and to further the use of private enterprise to the maximum, thereby strengthening the development and expansion of foreign commercial markets for United States agricultural commodities. In furtherance of this policy, the Secretary of Agriculture is authorized, notwithstanding any other provision of law, to enter into agreements with foreign and United States private trade for financing the sale of agricultural commodities for export over such periods of time and on such credit terms as the Secretary determines will accomplish the objectives of this section. Any agreement entered into under this section shall provide for the development and execution of projects which will result in the establishment of facilities designed to improve the storage or marketing of agricultural commodities, or which will otherwise stimulate and expand private economic enterprise in any friendly country. Any agreement entered into under this section shall also provide for the furnishing of such security as the Secretary determines necessary to provide reasonable and adequate assurance of payment of the purchase price in dollars with interest at a rate which will as nearly as practicable be equivalent to the average cost of funds to the United States Treasury, as determined by the Secretary of the Treasury, on outstanding marketable obligations of the United States having maturities comparable to maturities of credits extended under this section. In no event shall the rate of interest be less than the minimum rate, or the delivery period, deferral of first payment, or term of credit be longer than the maximum term, authorized in section 106. In carrying out this Act, the authority provided in this section for making dollar sales shall be used to the maximum extent practicable.

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[51] Sec. 211(b)(2) of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 551) struck out the final two sentences of sec. 106(b)(2). They previously read as follows:

"Such uses shall be deemed payments for the purpose of section 103(b) of this Act, except that for any fiscal year the total value of such payments may not exceed 15 per centum of the total value of all agreements entered into under title I of this Act for such fiscal year. Such payments shall be described in the reports required by section 408 of this Act and section 657 of the Foreign Assistance Act of 1961."

[52] Paragraph (4) was added by sec. 1111(g) of the Food Security Act of 1985 (Public Law 99–198, 99 Stat. 1475).

[53] 7 U.S.C. 1707. Sec. 107 was amended by Public Law 88–638 (78 Stat. 1036); Public Law 89–171 (79 Stat. 662); Public Law 89–808 (80 Stat. 1532).

(b) In carrying out the provisions of this section, the Secretary shall take reasonable precautions to safeguard usual marketings of the United States and to avoid displacing any sales of the United States agricultural commodities which the Secretary finds and determines would otherwise be made for cash dollars.

(c) The Secretary shall obtain commitments from purchasers that will prevent resale or transshipment to other countries, or use for other than domestic purposes, of agricultural commodities purchased under this section.

(d) In carrying out this Act, the provisions of sections 102, 103(a), 103(d), 103(e), 103(f), 103(j), 103(k), 110, 401, 402, 403, 404, 405, 407, 408, and 409 shall be applicable to sales under this section.

Sec. 108.[54] (a)(1) In order to foster and encourage the development of private enterprise institutions and infrastructure as the base for the expansion, promotion, and improvement of the production of food and other related goods and services within a developing country and pursuant to an agreement for the sale of agricultural commodities entered into under this title, the President may enter into an agreement with a financial intermediary located or operating in such country under which the President shall lend to such financial intermediary foreign currency that accrues as a result of commodity sales to such country under a sales agreement entered into under this title after the date of enactment of the

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[54] Sec. 108 was added by sec. 1111(h) of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1476).

Food Security Act of 1985. Procurement and other contracting requirements, normally applicable to appropriated funds, shall not apply to such foreign currency.

(2) Prior to loaning the foreign currencies as provided in this section, the President shall take such steps as may be necessary to assure that the availability of such foreign currencies to financial intermediaries is adequately publicized within the purchasing country.

(b) To be eligible to obtain foreign currency under this section, a financial intermediary must enter into an agreement with the President under which the intermediary agrees to use such currency to make loans to private individuals, cooperatives, corporations, or other entities within a developing country, at reasonable rates of interest, for the purpose of financing—

(1) productive, private enterprise investment within such country, including such investment in projects carried out by cooperatives, nonprofit voluntary organizations, and other entities found to be qualified by the President;

(2) private enterprise facilities for aiding the utilization and distribution, and increasing the consumption of and markets for, United States agricultural commodities and the products thereof; or

(3) private enterprise support of self-help measures and projects.

(c) An agreement entered into under this section shall specify the terms and conditions under which the foreign currency shall be used and subsequently repaid including the following terms and conditions:

(1) A financial intermediary shall, to the maximum extent feasible, give preference to the financing of agricultural related private enterprise with the funds provided under this section.

(2)(A) a financial intermediary shall repay a loan made under this section, plus accrued interest, at such times and in such manner as will permit conversion of such foreign currency to dollars in accordance with the schedule for such conversion.

(B) A financial intermediary may repay a loan made under this section prior to the repayment date specified in such agreement.

(3) To be eligible to receive financing from a financial intermediary under this section, an entity or venture must—

(A) be owned, directly or indirectly, by citizens of the developing country or any other country eligible to participate in a sales agreement entered into under this title, except that up to 49 percent of such ownership interest may be held by citizens of the United States; and

(B) not be owned or controlled, in whole or in part, by the government or any governmental subdivision of the developing country.

(4)(A) The rate of interest charged on funds loaned to a financial intermediary under this section shall be such rate as is determined by the President and the intermediary.

(B) In the case of a cooperative or nonprofit voluntary agency that is acting as a financial intermediary, the President may charge a lower rate of interest on funds loaned to such intermediary under this section than is charged to other types of intermediaries or make a grant from currencies received from sales made under section 101(a)(3) of this Act to defray the startup costs of becoming a financial intermediary.

(5) No currency made available under this section may be used to promote the production of agricultural commodities or the products thereof that will compete, as determined by the President, in world markets with similar agricultural commodities or the products thereof produced in the United States.

(6) The President may not require a developing country to guarantee the repayment of a loan made to a financial intermediary under this section as a condition of receipt of such loan.

(7) A financial intermediary shall take such steps as may be necessary to publicize in the developing country the availability of loan funds under this section.

(d)(1) All currencies repaid by financial intermediaries under agreements entered in under this section shall be deposited and accounted for in accordance with section 105.

(2) Currencies repaid by financial intermediaries shall, as determined by the President—

(A) be used to finance additional productive, private enterprise investment under agreements with financial intermediaries entered into under this section;

(B) be used for the development of new markets for United States agricultural commodities;

(C) be used for the payment of United States obligations (including obligations entered into pursuant to other laws of the United States); or

(D) be converted to dollars.

(3) Section 1306 of title 31, United States Code, shall apply to currencies used for the purpose specified in paragraph (2)(C).

(e)(1) Any agreement entered into under this section and section 106(b)(4) shall be subject to periodic audit to determine whether the terms and conditions of the agreement are being fulfilled.

(2) Not later than 180 days after the end of each fiscal year, the President shall report to the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate on the activities carried out under this section and section 106(b)(4) during the preceding fiscal year, including an evaluation of the impact of investment under this section and section 106(b)(4) on the development of agricultural- related private enterprise in each participating country.

(f) The President may provide agricultural technical assistance to further the purposes of this section, including the funding of market development activities. To the maximum extent practicable, the President shall use at least 5 percent of the foreign currencies obtained for use under this section from sales of agricultural commodities made under agreements entered into under this title after the date of enactment of the Food Security Act of 1985 to carry out such assistance.

(g) For each of the fiscal years 1986 through 1990, and in accordance with the provisions of section 106(b)(4) and this section, the

President is encouraged to channel foreign currencies, in an amount equivalent to 25 percent of the value of sales agreements under this title, for loans for private enterprise investment provided there are appropriate proposals for such an amount of foreign currencies.

(h) The provisions of this section apply notwithstanding any other provision of law.

(i) As used in this section and in section 106(b)(4)—

(1) the term "developing country" means a country that is eligible to participate in a sales agreement entered into under this title; [55]

(2) the term "financial intermediary" means a bank, financial institution, cooperative, nonprofit voluntary agency, or other organization or entity, as determined by the President, that has the capability of making and servicing a loan in accordance with this section; and [55]

(3) [55] the terms "private sector development activity" and "private enterprise investment" include the construction of low- and medium-income housing and shelter.

Sec. 109.[56] (a) Before entering into agreements with developing countries for the sale of United States agricultural commodities on whatever terms, the President shall consider the extent to which the recipient country is undertaking wherever practicable self-help measures to increase per capita production and improve the means for storage and distribution of agricultural commodities, including:

(1) devoting land resources to the production of needed food rather than to the production of nonfood crops-especially nonfood crops in world surplus;

(2) development of the agricultural chemical, farm machinery and equipment, transportation and other necessary industries through private enterprise;

(3) training and instructing farmers in agricultural methods and techniques, and reducing illiteracy among the rural poor,[57]

(4) constructing adequate storage facilities;

(5) improving marketing and distribution systems;

(6) creating a favorable environment for private enterprise and investment, both domestic and foreign, and utilizing available technical know-how;

(7) establishing and maintaining Government policies to insure adequate incentives to producers;

(8) establishing and expanding institutions for adaptive agricultural research;

(9) allocating for these purposes sufficient national budgetary and foreign exchange resources (including those supplied by bilateral, multilateral and consortium aid programs) and local

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[55] Sec. 2309 of Public Law 100–418 (102 Stat. 1346) struck "and" at the end of (1), added "; and" at the end of (2) and added (3).

[56] 7 U.S.C. 1709. Sec. 109 was amended by Public Law 85–128 (71 Stat. 1791); Public Law 86–341 (73 Stat. 606); Public Law 87–128 (75 Stat. 307); Public Law 88–638 (78 Stat. 1037); Public Law 89–808 (80 Stat. 1533); Public Law 90–436 (82 Stat. 450).

[57] The words ", and reducing illiteracy among the rural poor" were added by sec. 1210(a)(1) of Public Law 97–98 (95 Stat. 1281).

currency resources (resulting from loans or grants to recipient governments of the proceeds of local currency sales);

(10) [58] carrying out voluntary programs to control population growth;

(11) [59] carrying out programs to improve the health of the rural poor, including the immunization of children;[60] and

(12) [61] promoting the conservation and study of biological diversity.

In taking these self-help measures into consideration the President shall take into particular account the extent to which they are being carried out in ways designed to contribute directly to development progress in poor rural areas and to enable the poor to participate actively in increasing agricultural production through small farm agriculture.[62]

(b) [63] * * * [Repealed—1981]

(c) Each agreement entered into under this title shall describe the program which the recipient country is undertaking to improve its production, storage, and distribution of agricultural commodities; and shall provide for termination of such agreement whenever the President finds that such program is not being adequately developed.

(d) [64] (1) In each agreement entered into under this title and in each amendment to such an agreement, the economic development and self-help measures which the recipient country agrees to undertake shall be described (A) to the maximum extent feasible, in specific and measurable terms, and (B) in a manner which ensures that the needy people in the recipient country will be the major beneficiaries of the self-help measures pursuant to each agreement.

(2) The President shall, to the maximum extent feasible, take appropriate steps to assure that, in each agreement entered into under this title and in each amendment to such an agreement, the self-help measures agreed to are additional to the measures that the recipient country otherwise would have undertaken irrespective of that agreement or amendment.

(3) The President shall take all appropriate steps to determine whether the economic development and self-help provisions of each agreement entered into under this title, and of each amendment to such an agreement, are being fully carried out.

Sec. 110.[65] Agreements shall not be entered into under this title during any calendar year which will call for an appropriation to reimburse the Commodity Credit Corporation in an amount in excess of $1,900,000,000, plus any amount by which agreements entered into under this title in prior years have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than authorized for such prior years.[66]

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[58] Clause (10) was added by sec. 2(b) of Public Law 90-436 (82 Stat. 450).

[59] Paragraph (11) was added by sec. 1210(a)(3) of Public Law 97-98 (95 Stat. 1281).

[60] The words "including the immunization of children" were added by sec. 1112(a)(1) of the Food Security Act of 1985. (Public Law 99-198, 99 Stat. 1478).

[61] Paragraph (12) was added by sec. 10 of the Agricultural and Trade Missions Act (sec. 157 of the Continuing Appropriations for 1988, Public Law 100-202).

[62] This paragraph was added by sec. 206 of Public Law 94-161 (89 Stat. 853).

[63] Subsec. (b) was repealed by sec. 401(8) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1537). It formerly read as follows:

"(b) Notwithstanding any other provisions of this Act, in agreements with nations not engaged in armed conflict against Communist forces or against nations with which the United States has no diplomatic relations, not less than 20 per centum of the foreign currencies set aside for purposes other than those in sections 104 (a), (b), (e), and (j) shall be allocated for the self-help measures set forth in this section."

[64] Subsec. (d) was added by sec. 1210(b) of Public Law 97-98 (95 Stat. 1281).

[65] 7 U.S.C. 1710. Sec. 110 was added by Public Law 89-808 (80 Stat. 1534).

Sec. 111.[67] Not more than 25 per centum of the food aid commodities provided under this title in each fiscal year shall be allocated and agreed to be delivered to countries other than those which meet the poverty criterion established for International Development Association financing and which are affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad, unless the President certifies to the Congress that (1) the use of such food assistance is required for humanitarian food purposes, or (2) the quantity of commodities which would be required to be allocated under this section to countries which meet the International Development Association poverty criterion could not be used effectively to carry out the humanitarian or development purposes of this title. A reduction below 75 per centum in the proportion of food aid allocated and agreed to be delivered to countries which meet the International Development Association poverty criterion and which are affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad which results from significantly changed circumstances occurring after the initial allocation shall not constitute a violation of the requirements of this section.[68] Any reallocation of food aid shall be in accordance with this section so far as practicable. The President shall report promptly any such reduction, and the reasons therefor, to the Congress.

Sec. 112.[69] (a) No agreement may be entered into under this title to finance the sale of agricultural commodities to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges causing the disappearance of persons by the abduction and clandestine detention of those persons,[70] or other flagrant denial of the right to life, liberty, and the security of person, unless such agreement will directly benefit the needy people in such country. An agreement will not directly benefit the needy people in the country for purposes of the preceding sentence unless either the commodities themselves or the proceeds from their sale will be used for specific projects or programs which the President determines would directly benefit the needy people of that country. The agreement shall specify how the projects or programs will be used to benefit the needy people and shall require a report to the President on such use within 6 months after the commodities are delivered to the recipient country.

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[66] Sec. 2 of Public Law 92-226 (86 Stat. 20), approved Feb. 7, 1972, stated: "It is the sense of Congress that funds to administer the food-for-peace program should not be reduced as a result of any reduction in the authorization provided to carry out the Foreign Assistance Act of 1961."

[67] 7 U.S.C. 1711. Sec. 111 was added by Sec. 207 of Public Law 94-161 (89 Stat. 853).

[68] Sec. 202 of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 545) struck out the first three sentences of sec. 111 and added the text to this point.

[69] 7 U.S.C. 1712. Sec. 112 was added by sec. 203 of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 545).

[70] The words "causing the disappearance of persons by the abduction and clandestine detention of those persons," were added by Sec. 701(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96-533, 94 Stat. 3156).

(b) To assist in determining whether the requirements of subsection (a) are being met, the Committee on Agriculture, Nutrition, and Forestry of the Senate or the Committee on International Relations of the House of Representatives may require the President to submit in writing information demonstrating that an agreement will directly benefit the needy people in a country.

(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

(d) The President shall transmit to the Speaker of the House of Representatives, the President of the Senate, and the Committee on Agriculture, Nutrition, and Forestry of the Senate in the annual presentation materials on planned programing of assistance under this Act, a full and complete report regarding the steps he has taken to carry out the provisions of this section.

Sec. 113.[71] In the allocation of funds made available under this title, priority shall be given to financing the sale of food and fiber commodities.

Sec. 114.[72] (a) The Congress declares it to be the policy of the United States to assist developing countries in the transition from food assistance recipients to economic self-sufficiency and to assist those nations which have been recipients of high protein, blended, or fortified foods under title II of this Act to continue to combat hunger and malnutrition among the lower income segments of their population, especially children, through the continued provision of these foods under this title.

(b) In implementing the policy declared in subsection (a), the President, in entering into agreements for the sale of high protein, blended, or fortified foods under this title with countries which (1) give assurance that the benefits of any waiver under this section will be passed on to the individual recipients of such foods, and (2) have a reasonable potential for transition to commercial purchasers of such foods, may make provisions for a waiver of repayment of up to that part of the product value which is attributable to the costs of processing, enrichment, or fortification.

(c) In implementing this section, due care shall be taken to minimize its impact on other commercial and concessional sales of whole grains and, where feasible, agreements under this title utilizing the authority contained in this section will provide for sales of such commodities.

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[71] 7 U.S.C. 1713. Sec. 113 was added by Sec. 204 of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 546).

[72] 7 U.S.C. 1714. Sec. 114 was added by Sec. 205 of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 546).

Sec. 115.[73] (a) No purchases of food commodities from private stocks [74] shall be financed under this title unless they are made on the basis of an invitation for bid publicly advertised in the United States and on the basis of bid offerings which shall conform to such invitation and shall be received and publicly opened in the United States. All awards in the purchase of commodities financed under this title shall be consistent with open, competitive, and responsive bid procedures, as determined by the Secretary of Agriculture. Commissions, fees, or other payments to any selling agent shall—unless waived by the Secretary—be prohibited in any purchase of food commodities financed under this title.

(b) Notwithstanding any other provision of law, any commission, fee, or other compensation of any kind paid or to be paid by any supplier of a commodity or ocean transportation financed by the Commodity Credit Corporation under this title, to any agents, brokers, or other representatives of the importer or importing country, including a corporation owned or controlled by the importer or the government of the importing country, shall be reported to the Secretary of Agriculture by the supplier of the commodity or ocean transportation. The report shall identify the person or entity to whom the payment is made and the transaction in connection with which the payment is made. The Secretary shall maintain such information for public inspection, publish a report thereof annually, and forward a copy of the report to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Any supplier of a commodity or ocean transportation who fails to file such a report or who files a false report shall be ineligible to furnish—directly or indirectly—commodities or ocean transportation financed under this title for a period of five years.

TITLE II

Sec. 201.[75] (a) [76] The President is authorized to determine requirements and furnish agricultural commodities, on behalf of the people of the United States of America, to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas; and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. The Commodity Credit Corporation shall make available to the President such agricultural commodities determined to be available under section 401 as he may request.

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[73] 7 U.S.C. 1715. Sec. 115 was added by sec. 1202 of the Food and Agriculture Act of 1977 (Public Law 95–113, 91 Stat. 955).

[74] The words "from private stocks" were added by sec. 1211 of Public Law 97–98 (95 Stat. 1281).

[75] 7 U.S.C. 1721. Sec. 201 was amended by Public Law 84–540 (70 Stat. 201); Public Law 84–962 (70 Stat. 988); further amended and restated by sec. 2(B) of Public Law 89–808 (80 Stat. 1534).

[76] Subsection designation "(a)" and a new subsec. (b) were added by sec. 208 of Public Law 94–161 (89 Stat. 853–4).

(b)[76, 77] The minimum quantity of agricultural commodities distributed under this title for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, shall be 1,900,000 metric tons, of which not less than 1,425,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies, cooperatives, and the World Food Program; unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this title.

(c)[78] (1) Except as provided in paragraph (2), in distributing agricultural commodities under this title, the President shall—

(A) consider—

(i) the nutritional assistance to recipients and benefits to the United States that would result from distributing such commodities in the form of processed and protein-fortified products, including processed milk, plant protein products, and fruit, nut, and vegetable products;

(ii) the nutritional needs of the proposed recipients of the commodities;

(iii) the cost effectiveness of providing such commodities, for purposes of selecting commodities for distribution under nonemergency programs; and

(iv) the purposes of this title; and

(B) ensure that at least 75 percent of the quantity of agricultural commodities required to be distributed each fiscal year under subsection (b) for nonemergency programs be in the form of processed or fortified products or bagged commodities.

(2) The President may waive the requirement under paragraph (1)(B) or make available a smaller percentage of fortified or processed food than required under paragraph (1)(B) during any fiscal year in which the President determines that the requirements of the programs established under this title will not be best served by the distribution of fortified or processed food in the amounts required under paragraph (1)(B).

Sec. 202.[79] (a) The President may furnish commodities for the purposes set forth in section 201 through such friendly governments and such agencies, private or public, including intergovernmental organizations such as the world food program and other multilateral organizations in such manner and upon such terms and conditions as he deems appropriate. Such commodities may be furnished for direct distribution, sale, barter, or other appropriate disposition in carrying out the purposes set forth in section 201. [80] The President shall, to the extent practicable, utilize nonprofit vol-

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[77] Sec. 201(b) was amended and restated by sec. 1102 of the Food Security Act of 1985, Public Law 99-198 (99 Stat. 1465). Previous minimum quantities distributed under this title included:
Fiscal years 1978-1980—1,600,000 metric tons (1,300,000 for nonprofit distribution).
Fiscal year 1981—1,650,000 metric tons (1,350,000 for nonprofit distribution).
Fiscal years 1982-1986—1,700,000 metric tons (1,200,000 for nonprofit distribution).
Fiscal year 1986—1,800,000 metric tons (1,300,000 for nonprofit distribution).

[78] Subsec. (c) was added by sec. 1103 of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1465).

[79] 7 U.S.C. 1722. Sec. 202 was amended by Public Law 86-472 (74 Stat. 140); Public Law 88-205 (77 Stat. 380); sec. 2(B) of Public Law 89-808 (80 Stat. 1534).

[80] The sentence preceding this note was added by sec. 1003 of Public Law 99-83 (99 Stat. 270).

untary agencies or cooperatives[81] registered with, and approved by, the Agency for International Development.[82] If no United States nonprofit voluntary agency registered with and approved by the Agency for International Development[82] is available, the President may utilize a foreign nonprofit voluntary agency which is registered with and approved by the Agency for International Development.[83] Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate marking on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America.[84] Except in the case of emergency, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made.

(b)[85] (1) Assistance to needy persons under this title shall be directed, insofar as practicable, toward community and other self-help activities designed to alleviate the causes of need for such assistance.

(2)[86] In order to assure that food commodities made available under this title are used effectively and in the areas of greatest need, entities through which such commodities are distributed shall be encouraged to work with indigenous institutions and employ indigenous workers, to the extent feasible, to assess nutritional and other needs of beneficiary groups, help these groups design and carry out mutually acceptable projects, recommend ways of making food assistance available that are most appropriate for each local setting, supervise food distribution, and regularly evaluate the effectiveness of each project.

(3) In distributing food commodities under this title, priority shall be given, to the extent feasible, to those who are suffering from malnutrition by using means such as (A) giving priority within food programs for preschool children to malnourished children, and (B) giving priority to the poorest regions of countries.

(4)[87] In the case of commodities distributed under this title by nonprofit voluntary agencies, consideration shall be given to nutritional and development objectives as established by those agencies in light of their assessment of the needs of the people assisted.

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[81] The words "or cooperatives" were added by sec. 11 of the Agricultural and Trade Missions Act (sec. 101(o) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat 1329-448).

[82] The reference to the Agency for International Development was substituted in lieu of a reference to the Advisory Committee on Voluntary Foreign Aid by sec. 121 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 366).

[83] This sentence was added by sec. 208(a) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 547). Sec. 208(b) of the same Act stated, "For purposes of implementing the amendment made by subsection (a), the President shall issue regulations governing registration with an approval by the Advisory Committee on Voluntary Foreign Aid of foreign nonprofit voluntary agencies."

[84] Sec. 207(2) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 547) struck out the following sentence which had previously appeared at this point: "The assistance to needy persons shall insofar as practicable be directed toward community and other self-help activities designed to alleviate the causes of the need for such assistance."

[85] Subsection designation "(a)" and a new subsec. (b) were added by sec. 207(3) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 547).

[86] Paragraph (2) was amended and restated by sec. 202 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 368). It formerly read as follows:

"(2) In order to assure that food commodities made available under this title are used effectively, indigenous workers shall be employed, to the extent feasible, to provide information on nutrition and conduct food distribution programs in the most remote villages."

[87] Paragraph (4) was added by sec. 1004(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, Stat. 271).

(c)[88] (1) In agreements with nonprofit voluntary agencies and cooperatives for nonemergency assistance under this title, the President is encouraged, if requested by the nonprofit voluntary agency or cooperative, to approve multiyear agreements to make agricultural commodities available for distribution by that agency or cooperative. Such agreement shall be subject to the availability each fiscal year of the necessary appropriations and agricultural commodities.

(2) Paragraph (1) does not apply to an agreement which the President determines should be limited to a single year because of the past performance of the nonprofit voluntary agency or cooperative or because the agreement involves a new program of assistance.

(3) In carrying out a multiyear agreement pursuant to this subsection, a nonprofit voluntary agency or cooperative shall not be required to obtain annual approval from the United States Government in order to continue its assistance program pursuant to the agreement, unless exceptional and unforeseen circumstances have occurred which the President determines require such approval.

Sec. 203.[89] The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this title costs for packaging, enrichment, preservation, and fortification; processing, transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in United States ports; ocean freight charges from United States ports to designated ports of entry abroad;[90] transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports;[91] in the case of commodities for urgent and extraordinary relief requirements, including pre-positioned commodities, transportation costs from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs;[92] and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

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[88] Subsec. (c) was added by sec. 1005 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 271).

[89] 7 U.S.C. 1723. Sec. 203 was amended by Public Law 84-540 (70 Stat. 201); Public Law 85-128 (71 Stat. 345); Public Law 86-341 (73 Stat. 606); Public Law 86-472 (74 Stat. 140); Public Law 87-128 (75 Stat. 307); Public Law 88-638 (78 Stat. 1037); Public Law 89-808 (80 Stat. 1535).

[90] Sec. 209(1) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 548) struck out the words ", or, in the case of landlocked countries" which previously appeared at this point.

[91] Sec. 209(2) of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 548) added the words to this point beginning with "in the case (1)".

[92] Sec. 305 of the President's Emergency Food Assistance Act of 1984 (sec. 305 of the Continuing Appropriations, 1985, Public Law 98-473, 98 Stat. 2195) added the words to this point beginning with "in the case of commodities for urgent and extraordinary relief requirements".

Sec. 204.[93] Programs of assistance shall not be undertaken under this title during any fiscal [94] year which call for an appropriation of more than $1,000,000,000 [95] to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available) plus any amount by which programs of assistance undertaken under this title in the preceding fiscal [94] year have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than were authorized for such purpose during such preceding year. The President may waive the limitation in the preceding sentence if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian needs.[96] In addition to other funds available for such purposes under any other Act, funds made available under this title may be used in an amount not exceeding $7,500,000 annually to purchase foreign currencies accruing under title I of this Act in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance of any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this title are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance: *Provided, however,* That such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non- United States Government sources.

Sec. 205.[97] It is the sense of the Congress that the President should encourage other advanced nations to make increased contributions for the purpose of combating world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs. It is further the sense of the Congress that as a means of achieving this objective, the United States should work for the expansion of the United Nations World food program beyond its present established goals.

Sec. 206. (a) [98] Except to meet famine or other urgent or extraordinary relief requirements, or for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives,[99] no assistance under this subchapter shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with section 1709 of this title, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for (A) alleviating the causes of the need for the assistance in accordance with the purposes and policies specified in section 2151a of title 22, (B) programs and projects to increase the effectiveness of food distribution and increase the availability of food commodities provided under this subchapter to the neediest individuals in recipient countries.[100] The President shall include information on currencies used in accordance with this section in the reports required under section 1736b of this title and section 2417 of title 22, or (C) health programs and projects, including the immunization of children.[101]

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[93] 7 U.S.C. 1724. Sec. 204 was amended by Public Law 85–128 (71 Stat. 3455); Public Law 85–931 (72 Stat. 1791); Public Law 86–341 (73 Stat. 606); Public Law 87–128 (75 Stat. 307); Public Law 88–638 (78 Stat. 1037); sec. 2(C) of Public Law 89–808 (80 Stat. 1535).

[94] Sec. 1101 of Public Law 99–198 (99 Stat. 1465) changed the word "calendar" to "fiscal."

[95] This figure was increased from $750,000,000 to $1,000,000,000 by sec. 1212 of Public Law 97–98 (95 Stat. 1281). Previously, this figure had been increased from $600,000,000 to $750,000,000 by sec. 1203 of Public Law 95–113 (91 Stat. 956).

[96] The sentence preceding this note was added by sec. 1101 of Public Law 99–198 (99 Stat. 465).

[97] 7 U.S.C. 1725. Sec. 205 was added by sec. 2(C) of Public Law 89–808 (80 Stat. 1535).

[98] 7 U.S.C. 1726. Sec. 206(a) was added by sec. 209 of Public Law 94–161 (89 Stat. 854). It was designated subsec. (a) by sec. 13 of the Agricultural Aid and Trade Mission Act (sec. 101(o) of Public Law 100–202, 101 Stat. 1329–448).

[99] The phrase beginning "or for nonemergency" and ending at this point were added by sec. 12 of the Agricultural Aid and Trade Missions Act (sec. 101(o) of the Continuing Appropriations for 1988, Public Law 100–202, 101 Stat 1329–448).

(b)[102] Not later than February 15, 1988, and annually thereafter, the President shall report to Congress on sales and barter, and use of foreign currency proceeds, under this section and section 207 during the preceding fiscal year. Such report shall include information on—

(1) the quantity of commodities furnished for such sale or barter;

(2) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in the preceding fiscal year;

(3) how such funds and services were used;

(4) the amount of foreign currency proceeds that were used under agreements under this section and section 207 in the preceding fiscal year, and the percentage of the quantity of all commodities and products furnished under this section and section 207 in such fiscal year such use represented;

(5) the President's best estimate of the amount of foreign currency proceeds that will be used, under agreements under this section and section 207, in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the President estimates will be furnished under this section and section 207 in each such fiscal year;

(6) the effectiveness of such sales, barter, and use during the preceding fiscal year in facilitating the distribution of commodities and products under this section and section 207;

(7) the extent to which such sales, barter, or uses—

(A) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made;

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[100] Clause (3), which had been amended by sec. 210 of Public Law 95–88 (91 Stat. 548), was further amended and restated by sec. 203 of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 368). It formerly read as follows: "(3) such agreement provides that the currencies will be used for increasing the effectiveness of the programs of food distribution and increasing the availability of food commodities provided under this title to the neediest individuals in recipient countries."

[101] The reference to health programs and projects, including the immunization of children was added by sec. 1112(a)(2) of the Food Security Act of 1985 (Public Law 99–198, 99 Stat. 1478).

[102] Subsec. (b) was added by sec. 13 of the Agricultural Aid and Trade Missions Act (sec. 101(o) of the Continuing Appropriations for 1988, Public Law 100–202, 101 Stat. 1329–448).

(B) affect usual marketings of the United States;

(C) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries; or

(D) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this title; and

(8) the President's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under this section and section 207.

Sec. 207.[103] (a) A nonprofit voluntary agency or cooperative [104] requesting a non-emergency food assistance agreement under this title shall include in such request a description of the intended uses of any foreign currency proceeds that would be generated with the commodities provided under the agreement.

(b) Such agreements shall provide, in the aggregate for each fiscal year, for the use of foreign currency proceeds under this subsection in an amount that is not less than 10 percent [105] of the aggregate value of the commodities distributed under nonemergency programs under this title for such fiscal year.

(c) [106] Foreign currencies generated from any partial or full sales or barter of commodities by a nonprofit voluntary agency or cooperative shall be used—

(1) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this title; and

(2) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.

Sec. 208.[107] Periods For Review And Comment.

(a) Response.—If a proposal to make agricultural commodities available under this title is submitted by a nonprofit voluntary agency or cooperative with the concurrence of the appropriate United States Government field mission or if a proposal to make agricultural commodities available to a nonprofit voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, D.C. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

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[103] Sec. 207 was added by sec. 1104(b) of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1466) Sec. 1104(b) of the Act provided that sec. 204 shall apply to agreements extend into after, December 31, 1985.

[104] The words "or cooperative" were added by sec. 14 of the Agricultural and Trade Missions Act (sec. 101(o) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-449).

[105] The figure, "10 percent", was substituted in lieu of "5 percent" by sec. 14 of the Agricultural and Trade Missions Act (sec. 101(o) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-449).

[106] Subsec. (c) was added by sec. 14 of the Agricultural and Trade Missions Act (sec. 101(o) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-449).

[107] Sec. 208 was added by sec. 15 of the Agricultural Aid and Trade Missions Act (sec. 101(o) of the Continuing Appropriations for 1988, Public Law 100-202, 101 Stat. 1329-449).

(b) NOTICE AND COMMENT.—Not later than 30 days before the issuance of a final guideline to carry out this title, the President shall—

(1) provide notice of the proposed guideline to nonprofit voluntary agencies and cooperatives that participate in programs under this title, and other interested persons, that the proposed guideline is available for review and comment;

(2) make the proposed guideline available, on request, to the agencies, cooperatives, and others; and

(3) take any comments received into consideration before the issuance of the final guideline.

(c) DEADLINE FOR SUBMISSION OF COMMODITY ORDERS.—Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

TITLE III [108]

Sec. 301.[109, 110] (a) In order to establish a strong relationship between United States food assistance and efforts by developing countries to increase the availability of food for the poor in such countries and improve in other ways the quality of their lives, the President is authorized to encourage the use of the resources provided by the concessional financing of agricultural commodities under this Act for agricultural and rural development, including voluntary family planning, health, and nutrition programs, by permitting the funds accruing from the local sale of such commodities, or the dollar sales value of the commodities themselves,[111] which are used for such purposes to be applied against the repayment obligation of governments receiving concessional financing under this Act. The agreement between the United States Government and an eligible developing country government which provides for repayment of the obligation to the United States accruing from the concessional sale of United States agricultural commodities by the use in the participating country of funds from the sale of such commodities or of the commodities themselves [112] for specified development purposes shall be called a Food for Development Program.

(b) The overall goal of assistance under this title shall be to increase the access of the poor in the recipient country to a growing and improving food supply through activities designed to improve the production, protection, and utilization of food, and to increase the well-being of the poor in the rural sector of the recipient country. Assistance under this title shall be used for programs of agricultural development, rural development, nutrition, health services (including immunization of children)[113] and population planning, and the program described in section 406(a)(1) of this Act, in those countries which are undertaking (or are seriously prepared to undertake in connection with the provision of agricultural commodities under this Act) self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with section 109 of this Act, when such programs are directed at and likely to achieve the policy objectives of sections 103 and 104 of the Foreign Assistance Act of 1961 and are consistent with the policy objectives of this Act. Particular emphasis should be placed on activities which effectively assist small farmers, tenants, sharecroppers, and landless agricultural laborers, by expanding their access to the rural economy through services and institutions at the local level, and otherwise providing opportunities for the poor who are dependent upon agriculture and agriculturally related activities to better their lives through their own efforts.

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[108] Sec. 2(D) of Public Law 89-808 (80 Stat. 1535), substituted "TITLE III" for "TITLE III—GENERAL PROVISIONS" and struck out secs. 304, 305, 306, 307 and 308.

[109] 7 U.S.C. 1727.

[110] Sec. 211 of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 548) redesignated secs. 301, 302, and 303 as secs. 308, 309, and 310, respectively and added the new secs. 301 to 307.

[111] The words ", or the dollar sales value of commodities themselves," were added by sec. 204(a)(1) of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 369).

[112] The words "in the participating country of funds from the sale of such commodities or of the commodities themselves" were substituted in lieu of the words "of funds from the sale of such commodities in the participating country" by sec. 204(a)(2) of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 369).

(c)[114] In the event of a serious natural disaster in a country participating in a Food for Development Program, funds accruing from the sale of commodities made available under this title may be used, with the approval of the United State Government, for disaster relief, rehabilitation, and reconstruction assistance in any rural or urban area of that country adversely affected by the disaster. Such assistance may include (but is not limited to) food, medicine, and medical supplies, shelter, and in-country transportation.

Sec. 302.[110] [115] (a) Whenever the President, in consultation with the government of a developing country, determines that such developing country meets the criteria specified in subsection (b) of this section and could benefit from the sale of United States agricultural commodities (including processed and blended foods) for the purposes of generating funds or distributing such commodities for agricultural and rural development, and improving food distribution and use within such country, the President may designate such country as eligible for a Food for Development Program.

(b) In order to be eligible for a Food for Development Program under this section, a country must (1) have a need for external resources to improve its food production, marketing, distribution, and storage systems; (2) meet the criterion used to determine basic eligibility for development loans of the International Development Association of the International Bank for Reconstruction and Development; (3) have the ability to utilize effectively the resources made available by the sale of food commodities under this section for the purposes specified in clause (1) of this subsection; and (4) indicate the willingness to take steps to improve its food production, marketing, distribution, and storage systems.

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[113] The reference to immunization of children was added by sec. 1112(a)(3) of the Food Security Act of 1985 (Public Law 99–198, 99 Stat. 1478).

[114] 7 U.S.C. 1691 note. Sec. 4(a)(1) of the Bangladesh Disaster Assistance Act of 1988 (Public Law 100–576, 102 Stat. 2898) added sec. 301(c). Sec. 4 also provided:

"(2) Food for Development agreements entered into under title III of that Act before the date of enactment of this Act may be amended in order to implement the amendment made by paragraph (1).

"(3) Pending amendment pursuant to paragraph (2) of Food for Development agreements with the Government of Bangladesh, the use of funds accruing under those agreements, with the approval of the United States Government, for flood-related disaster assistance authorized by the amendment made by paragraph (1) shall be deemed to be consistent with the applicable agreement."

For complete text of the Bangladesh Disaster Assistance Act of 1988, see page 315.

[115] 7 U.S.C. 1727a.

(c)(1) Except as provided in paragraph (2) of this subsection, the aggregate value of all agreements entered into under this title—

(A) for fiscal year 1978, shall be not less than 5 percent,

(B) for fiscal year 1979, shall be not less than 10 percent, and

(C) for fiscal year 1980 and each fiscal year thereafter, shall be not less than 10 [116] percent,

of the aggregate value of all agreements entered into under title I of this Act for such fiscal year.

(2) The President may waive the requirement of paragraph (1) of this subsection with respect to a fiscal year if he determines that there are an insufficient number of agricultural and rural development projects which qualify for assistance under this title and that therefore the humanitarian purposes of this Act would be better served by furnishing financing under other provisions of this Act. Any such waiver shall be reported to the Congress, together with a detailed statement of the reasons for the lack of acceptable projects and a detailed description of efforts by the United States Government to assist eligible countries, pursuant to section 303(a), in identifying appropriate projects for assistance under this title.

(3) Greatest efforts shall be made by relevant United States agencies to encourage maximum utilization of assistance for Food for Development projects under this title, even beyond the minimums required by paragraph (1) of this subsection.

(4) [117] In developing and carrying out Food for Development Programs under this title, consideration shall be given to using the capability and expertise of American agriculture, and of United States nonprofit voluntary agencies and cooperatives [118] in partnership with indigenous individuals and organizations, in furthering economic development and increased food production.

Sec. 303.[110, 119] (a) A country designated as eligible and wishing to participate in a Food for Development Program shall formulate, with the assistance (if requested) of the United States Government, a multiyear proposal which shall be submitted to the President. Such proposal shall include an annual value or amount of agricultural commodities proposed to be financed under the authority of title I of this Act pursuant to the provisions of this title, and a plan for the intended uses of commodities or the funds generated from the sale of such commodities on an annual basis.[120] Such proposal shall also specify the nature and magnitude of problems to be affected by the effort, and shall present targets in qualified terms, insofar as possible, and a description of the relationships among the various projects, activities, or programs to be supported.

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[116] Sec. 1108 of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1467), lowered this percentage from 15 to 10.

[117] Paragraph (4) was added by sec. 205 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 369).

[118] The reference to nonprofit volunteer agencies and cooperatives was added by sec. 1004(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 271).

[119] 7 U.S.C. 1727b.

[120] The words "for each year such funds are to be disbursed", which previously appeared at this point, were struck out by sec. 204(c) of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 369).

(b) The multiyear utilization proposal for a Food for Development Program shall include, but not be limited to, a statement of how assistance under such Program will be integrated into and complement that country's overall development plans and other forms of bilateral and multilateral development assistance, including assistance made available under section 103 of the Foreign Assistance Act of 1961 or under any other title of this Act.

(c) In his review of any utilization proposal for a Food for Development Program, the President shall be satisfied that such assistance is intended to complement, but not replace, assistance authorized by the Foreign Assistance Act of 1961, or any other program of bilateral or multilateral assistance, or under the development program of the country desiring to initiate a Food for Development Program.

Sec. 304.[108, 121] (a) Whenever a utilization proposal has been agreed upon by the President and the participating country, the Commodity Credit Corporation is authorized to furnish credit under the authority of title I of this Act to the participating country for the purchase of a specific annual value of agricultural commodities to be delivered over a period of from one to five years, subject to the availability of commodities under section 401 of this Act.

(b) Notwithstanding any other provision of this Act, no payment except as provided for under this title shall be required of the recipient government as a part of any agreement to finance the sale of agricultural commodities pursuant to a Food for Development Program.

(c) In making food assistance available under this title to a country on the United Nations Conference on Trade and Development list of relatively least developed countries, the President may waive any requirement contained in section 303 (a) or (b), in that portion of section 303(c) which requires that assistance under this title is intended to complement but not replace any part of the development program of the participating country, or in section 306, if he finds that such country is unable to meet such requirement but could use assistance under this title to meet important humanitarian or developmental objectives of this Act. Such waivers, and the reasons therefor, shall be reported annually by the President to the Congress.

(d)[122] The Commodity Credit Corporation may pay, with respect to commodities made available under this title to a country on the United Nations Conference on Trade and Development list of relatively least developed countries, freight charges from United States ports to designated ports of entry abroad or to designated points of entry abroad in the case of landlocked countries.

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[121] 7 U.S.C. 1727c.

[122] Subsec. (d) was added by sec. 202 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 955).

Sec. 305.[110, 123] (a) [124] Funds generated from the sale of agricultural commodities by any participating country under this title shall be held in a special account, where practicable, to be disbursed for the purposes described in the approved Food for Development Program of such country. The amount of funds disbursed for such purposes and in accordance with the agreement shall be deemed payments for the purposes of section 103(b) of this Act. Disbursements of funds from the special account in an amount equivalent to the dollar value of the credit furnished by the Commodity Credit Corporation under section 304(a) shall be deemed to be payment of all installments of principal and interest payable thereon for the commodities purchased by the participating country for purposes of this title.[125]

(b) [123] Such disbursement shall be deemed to be payments with respect to the credit furnished pursuant to the agreement or if, in the case of a country on the United Nations Conference on Trade and Development list of relatively least developed countries, the disbursement in a fiscal year are greater than the amount of the annual repayment obligation which that country would have to meet for that fiscal year under the agreement but for the disbursements in accordance with the Food for Development Program, then the disbursements which are in excess of the amount of that annual repayment obligation may, to the extent provided in the agreement, be considered as payments with respect to the annual repayment obligations of that country for that fiscal year under other financing agreements under this Act.

(c) [126] When agricultural commodities made available under this title are used by the participating country in development projects in accordance with the applicable Food for Development Program, the dollar sales value of such commodities shall be applied, in accordance with subsections (a) and (b) of this section, against repayment obligations of that country under this Act, with the value of the commodities so used being deemed to be disbursements made at the time of such use.

Sec. 306.[110, 127] Not more than one year after the initial delivery of commodities to any country under this title and each year thereafter for the period of agreement, the government of the participating country, with the assistance (if requested) of the United States Government, shall submit a comprehensive report to the President on the activities and progress achieved under the Food for Development Program for such country, including, but not limited to, a comparison of results with projected targets, a detailed description of how the commodities were used or [128] a specific accounting for funds generated, their uses, and the outstanding balances at the end of the most recent fiscal year. Such annual report may also include recommendations for modification and improvement in the Food for Development Program of such country.

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[123] 7 U.S.C. 1727d.

[124] The subsection designation "(a)" and subsec. (b) were added by sec. 203 of the International Development and Food Assistance Act of 1978 (Public Law 95–424, 92 Stat. 955).

[125] This sentence was added by sec. 206 of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 369).

[126] Subsec. (c) was added by sec. 204(b) of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 369).

[127] 7 U.S.C. 1727e.

[128] This requirement for a detailed description of how the commodities were used was added by sec. 207(a) of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 369).

Sec. 307.[110, 129] Each year the President shall review all agreements providing for the use under this title of the proceeds from the sale of agricultural commodities, or of the commodities themselves, with respect to which there was not full disbursement during the preceding fiscal year.[130] The results of such review shall be included in the annual report to the Congress required under section 408(a) of this Act.

(b) If the President finds that the provisions of an agreement are not being substantially met, he shall not extend financing for sales under this title until the end of the following fiscal year or until the situation is remedied, whichever occurs first, unless the failure to meet the provisions is due to unusual circumstances beyond the control of the recipient government.

Sec. 308.[131] * * * [Superseded]

Sec. 309.[132] * * * [Superseded]

Sec. 310.[133] The Secretary shall, whenever he determines that such action is in the best interest of the United States, and to the

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[129] 7 U.S.C. 1727f.

[130] This sentence was amended and restated by sec. 207(b) of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 369). It formerly read as follows: "Each year the President shall review the disposition of all agreements providing for the use of the proceeds from the sale of agricultural commodities pursuant to this title for which such funds were not fully disbursed the preceding year."

[131] This section contained an amendment to sec. 407 of the Agricultural Act of 1949. Since enactment of the Agricultural Trade Development and Assistance Act of 1954, sec. 407 has been amended several additional times.

[132] This section contained an amendment to sec. 416 of the Agricultural Act of 1949. Since enactment of the Agricultural Trade Development and Assistance Act of 1954, sec. 416 has been amended several additional times. The Food for Peace Act of 1966 (see page 1042) deleted from sec. 416 authority vested in the Commodity Credit Corporation to donate food commodities to non-profit, voluntary agencies registered with the Committee on Voluntary Foreign Aid of the Foreign Operations Administration or other appropriate department or agency of the Federal Government and intergovernmental organizations for use in the assistance of needy persons and in non-profit school lunch programs outside the United States. The assistance authorized by the provision is now contained in title II of this Act.

[133] 7 U.S.C. 1727g. This section, originally added as sec. 303, was amended by sec. 9 of Public Law 85–931 (72 Stat. 1791). It formerly read as follows:

"Whenever the Secretary has reason to believe that, in addition to other authorized methods and means of disposing of agricultural commodities owned by the Commodity Credit Corporation, there may be opportunity to protect the funds and assets of the Commodity Credit Corporation by barter or exchange of such agricultural commodities for (a) strategic materials entailing less risk of loss through deterioration or substantially less storage charges, or (b) materials, goods or equipment required in connection with foreign economic and military aid and assistance programs, or (c) materials or equipment required in substantial quantities for offshore construction programs, he is hereby directed to use every practicable means, in cooperation with other Government agencies, to arrange and make, through private trade channels, such barters or exchanges or to utilize the authority conferred on him by section 4(h) of the Commodity Credit Corporation Charter Act, as amended, to make such barters or exchanges. Agencies of the United States Government procuring such materials, goods or equipment are hereby directed to cooperate with the Secretary in the disposal of surplus agricultural commodities by means of barter or exchange. Strategic materials so acquired by the Commodity Credit Corporation shall be considered as assets of the Corporation and other agencies of the government, in purchasing strategic materials, shall purchase such materials from Commodity Credit Corporation inventories to the extent available in fulfillment of their requirements. The Secretary is also directed to assist through such means as are available to him, farmers' cooperatives in effecting exchange of agricultural commodities in their possession for straight materials."

See also sec. 302 of Public Law 98–180 (97 Stat. 1151) which expressed a sense of Congress that the Secretary of Agriculture should exchange or barter commodities (especially dairy products) owned by the Commodity Credit Corporation for materials, goods, and equipment produced in foreign countries, under the provision of this section.

maximum extent practicable, barter or exchange agricultural commodities owned by the Commodity Credit Corporation for (a) such strategic or other materials of which the United States does not domestically produce its requirements and which entail less risk of loss through deterioration of substantially less storage charges as the President may designate, or (b) materials, goods, or equipment required in connection with foreign economic and military aid and assistance programs, or (c) materials or equipment required in substantial quantities for offshore construction programs. He is hereby directed to use every practicable means, in cooperation with other Government agencies, to arrange and make, through private channels, such barters or exchanges or to utilize the authority conferred on him by section 4(h) of the Commodity Credit Corporation Charter Act, as amended,[134] to make such barters or exchanges.[135] To the maximum extent practicable, the Secretary shall solicit bids from, and utilize, private trading firms to arrange or make barters or exchanges for strategic or other materials under clause (a). In carrying out barters or exchanges authorized by this section, no restrictions shall be placed on the countries of the free world into which surplus agricultural commodities may be sold, except to the extent that the Secretary shall find necessary in order to take reasonable precautions to safeguard usual marketings of the United States and to assure that barters or exchanges under this Act will not unduly disrupt world prices of agricultural commodities or replace cash sales for dollars. The Secretary may permit the domestic processing of raw materials of foreign origin. The Secretary shall endeavor to cooperate with other exporting countries in preserving normal patterns of commercial trade with respect to commodities covered by formal multilateral international marketing agreements to which the United States is a party. Agencies of the United States Government procuring such materials, goods, or equipment are hereby directed to cooperate with the Secretary in the disposal of surplus agricultural commodities by means of barter or exchange. The Secretary is also directed to assist, through such means as are available to him, farmers' cooperatives in effecting exchange of agricultural commodities in their possession for strategic materials. Barter or exchange of agricultural commodities under clause (a) of this section shall be limited to exchange for materials which originate in the country to which the surplus agricultural commodities are exported and to arrangements which will prevent resale or transshipment of the agricultural commodities to other countries.[136]

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[134] 15 U.S.C. 714b.

[135] The third sentence of sec. 310, which immediately follows this point, was added by sec. 1167(c) of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1503).

[136] The last sentence was added by sec. 7 of Public Law 90-436 (82 Stat. 451).

TITLE IV

Sec. 401.[137] (a) [138] After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this Act, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this Act, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity, unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry out urgent humanitarian purposes of this Act.[139]

(b) [138] No agricultural commodity may be financed or otherwise made available under the authority of this Act except upon a determination by the Secretary of Agriculture that (1) adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.[140]

Sec. 402.[141] The term "agricultural commodity" as used in this Act shall include any agricultural commodity produced in the

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[137] 7 U.S.C. 1731. Sec. 401 was amended by Public Law 86–341 (73 Stat. 610); Public Law 87–703 (76 Stat. 610); further amended and restated by sec. 2(E) of Public Law 89–808 (80 Stat. 1536).

In addition, sec. 39(b) of Public Law 93–189 (87 Stat. 714) provided:

"(b) It is further the sense of the Congress that—

"(1) in making assessments which would affect or relate to the level of domestic production, the Executive Branch should include in the estimates of overall utilization the expected demands for humanitarian food assistance through such programs as are carried out under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480); and

"(2) legislation providing increased flexibility for responding to emergency and humanitarian requirements for food assistance should be considered as promptly as possible to the end that the last sentence of sec. 401 of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), may be amended by striking the period and inserting in lieu thereof a comma and the following: 'unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act.' "

[138] Sec. 212 of the International Development and Food Assistance Act of 1977 (Public Law 95–88, 91 Stat. 551) inserted the subsection designation "(a)" and added subsec. (b).

[139] Sec. 1204 of the Food and Agriculture Act of 1977 (Public Law 95–113, 91 Stat. 956) added the words to this point beginning with "unless the Secretary of Agriculture". Sec. 8 of Public Law 85–931 (72 Stat. 1792), as amended by Public Law 89–808 (80 Stat. 1538), provided as follows:

"In carrying out the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended, extra long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act in the same manner as upland cotton or any other surplus agricultural commodity is made available, and products manufactured entirely from upland or long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act as long as cotton is in surplus in the same manner as any other agricultural commodity or product is made available, and no discriminatory or other conditions shall be imposed which will prevent or tend to interfere with their sale or availability for sale under the Act." (7 U.S.C. 1701 note)

[140] The phrases "or interference with" and "or marketing" found in this sentence were added by sec. 208 of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 370). See also sec. 1110(e)(1) of the Food Security Act of 1985 [Food for Progress Act of 1985] (Public Law 99–198, 99 Stat. 1472), page 1007.

[141] 7 U.S.C. 1732. Sec. 402 was amended by Public Law 86–341 (73 Stat. 610); Public Law 87–703 (76 Stat. 611); sec. 2(E) of Public Law 89–808 (80 Stat. 1536). The sentence commencing with "the foregoing proviso * * *" was added by Public Law 92–42 (85 Stat. 99).

United States (including fish, without regard to whether such fish are harvested in aquaculture operations) [142] or product thereof produced in the United States: *Provided, however,* That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of title II of this Act, tobacco or products thereof. The foregoing proviso shall not be construed as prohibiting representatives of the domestic wine, beer, distilled spirits, or other alcoholic beverage industry [143] from participating in market development activities carried out with foreign currencies made available under title I of this Act which have as their purpose the expansion of export sales of United States agricultural commodities. In the allocation of funds made available under title I of this Act, priority shall be given to financing the sale of food and fiber commodities.[144]

Sec. 403.[145] (a) [146] There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act including such amounts as may be required to make payments to the Commodity Credit Corporation, to the extent the Commodity Credit Corporation is not reimbursed under section 104(j) and 105, for its actual cost incurred or to be incurred.[147] In presenting his budget, the President shall classify expenditures under this Act as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

(b) [146] Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all costs incurred under this Act, commodities from the Commodity Credit Corporation inventory, which were acquired under a domestic price support program, shall be valued at a price not greater than [148] the export market price therefor, as determined by the Secretary of Agriculture, as of the time the commodity is made available under this Act.

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[142] Sec. 405(b) of Public Law 98–623 (98 Stat. 3409) added this parenthetical phrase and deleted the third sentence of this section. The deleted sentence read as follows: "Subject to the availability of appropriations therefore, any domestically produced fishery product may be made available under this Act." Sec. 405(d) of Public Law 98–623 further stated that for purposes of sec. 135 of the Omnibus Budget Reconciliation Act of 1982, these amendments shall be considered to have taken effect before the date of enactment of that Act. Sec. 135 of such Act, which became effective on Sept. 8, 1982, authorized minimum and maximum amounts of funds of the Commodity Credit Corporation to be used for export activities during fiscal years 1983, 1984, and 1985. For complete text of sec. 135, see page 1096.

[143] The reference to the beer industry was added by sec. 24 of the Export Administration Act of 1979 (Public Law 96–72, 93 Stat. 536). The references to the distilled spirits and other alcoholic beverage industries were added by sec. 1213 of Public Law 97–98 (95 Stat. 1281).

[144] The last sentence of sec. 402 was added by sec. 1205 of the Food and Agriculture Act of 1977 (Public Law 95–113, 91 Stat. 956).

[145] 7 U.S.C. 1733. Sec. 403 was amended by Public Law 86–341 (73 Stat. 610); Public Law 87–703 (76 Stat. 611); Public Law 88–638 (78 Stat. 1037); sec. 2(E) of Public Law 89–808 (80 Stat. 1536).

[146] Sec. 1206 of the Food and Agriculture Act of 1977 (Public Law 95–113, 91 Stat. 956) inserted the subsection designation "(a)" and added subsec. (b).

[147] Sec. 1301 of the Omnibus Budget Reconciliation Act (Public Law 97–35, 95 Stat. 739) provided the following appropriation limits for fiscal years 1982–1984:

"Sec. 1301. Notwithstanding any other provision of law, programs shall not be undertaken under title I (including title III) and title II of the Agricultural Trade Development and Assistance Act of 1954 during any calendar year which call for an appropriation of more than $1,304,836,000 for the fiscal year 1982, $1,320,292,000 for the fiscal year 1983, and $1,402,278,000 for the fiscal year 1984."

[148] The words "a price not greater than" were added by sec. 1214 of Public Law 97–98 (95 Stat. 1282).

(c) [148] Notwithstanding any other provision of this Act or any other Act, if the President determines it to be necessary for the purposes of this Act, he may direct that not to exceed 15 percent of the funds available in any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.

Sec. 404.[150] (a) The programs of assistance conducted under this Act, and the types and quantities of agricultural commodities to be made available, shall be directed in the national interest toward the attainment of humanitarian and developmental objectives as well as the development and expansion of United States and recipient country agricultural commodity markets. To the maximum extent possible, either the commodities themselves shall be used to improve the economic and nutritional status of the poor through effective and sustainable programs, or any proceeds generated from the sales of agricultural commodities shall be used to promote policies and programs that benefit the poor.

(b) Country assessments shall be carried out whenever necessary in order to determine the types and quantities of agricultural commodities needed, the conditions under which commodities should be provided and distributed, the relationship between United States food assistance and other development resources, the development plans of that country, the most suitable timing for commodity deliveries, the rate at which food assistance levels can be effectively used to meet nutritional and developmental needs, and the country's potential as a new or expanded market for both United States agricultural commodities and recipient country foodstuffs.

Sec. 405.[151] The authority and funds provided by this Act shall be utilized in a manner that will assist friendly countries that are determined to help themselves toward a greater degree of self-reliance in providing enough food to meet the needs of their people and in resolving their problems relative to population growth.

Sec. 406.[152] (a) In order to further assist friendly developing countries to become self-sufficient in food production, the President [153] is authorized, notwithstanding any other provision of law—

(1) To establish and administer [154] a program of farmer-to-farmer assistance between the United States and such countries to help farmers in such countries in the practical aspects of increasing food production and distribution and improving the effectiveness of their farming operations;

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[149] Subsec. (c) was added by sec. 407 of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3151).

[150] 7 U.S.C. 1734. Sec. 404, was amended by Public Law 86–341 (73 Stat. 610); Public Law 89-808 (80 Stat. 1536), was further amended and restated by sec. 209 of the International Development Cooperation Act of 1979 (Public Law 96–53, 93 Stat. 370). It formerly read as follows:

"Sec. 404. The programs of assistance undertaken pursuant to this Act shall be directed toward the attainment of the humanitarian objectives and national interest of the United States."

[151] 7 U.S.C. 1735. Sec. 405 was amended by Public Law 86–341 (73 Stat. 610); Public Law 89-803 (76 Stat. 611); sec. 2(E) of Public Law 89–808 (80 Stat. 1536).

[152] 7 U.S.C. 1736. Sec. 406 was amended by Public Law 86–341 (73 Stat. 610); Public Law 87-703 (76 Stat. 611); sec. 2(E) of Public Law 89–808 (80 Stat. 1536).

[153] Sec. 214(1) of Public Law 94–161 (89 Stat. 855) substituted the words "the President" in lieu of "the Secretary of Agriculture."

[154] Sec. 214(2) of Public Law 94–161 (89 Stat. 855) struck the words "through existing agencies of the Dept. of Agriculture" which appeared at this point.

(2) To enter into contracts or other cooperative agreements with, or make grants to, land-grant colleges and universities and other institutions of higher learning in the United States to recruit persons who by reason of training, education, or practical experience are knowledgeable in the practical arts and sciences of agriculture and home economics, and to train such persons in the practical techniques of transmitting to farmers in such countries improved practices in agriculture, and to participate in carrying out the program in such countries including, where desirable, additional courses for training or retraining in such countries;

(3) To consult and cooperate with private non-profit farm organizations in the exchange of farm youth and farm leaders with developing countries and in the training of farmers of such developing countries within the United States or abroad;

(4) To conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries;

(5) [155] To coordinate the program authorized in this section with other foreign assistance activities of the United States;

(6) To establish by such rules and regulations as he deems necessary the conditions for eligibility and retention in and dismissal from the program established in this section, together with the terms, length and nature of service, compensation, employee status, oaths of office, and security clearances and such persons shall be entitled to the benefits and subject to the responsibilities applicable to persons serving in the Peace Corps pursuant to the provisions of section 612, volume 75 of the Statutes at Large, as amended; and

(7) To the maximum extent practicable, to pay the costs of such program through the use of foreign currencies accruing from the sale of agricultural commodities under this Act, as provided in section 104(i).

(b) There are hereby authorized to be appropriated not to exceed $33,000,000 during any fiscal year for the purpose of carrying out the provisions of this section.

Sec. 407.[156] There is hereby established an Advisory Committee composed of the Secretary of State, the Secretary of the Treasury,

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[155] Sec. 214(3) of Public Law 94-161 (89 Stat. 855) amended par. (5). It formerly read as follows: "(5) To coordinate the program authorized in this section with the activities of the Peace Corps, the Agency for International Development, and other agencies of the United States and to assign, upon agreement with such agencies, such persons to work with and under the administration of such agencies: *Provided*, That nothing in this section shall be construed to infringe upon the powers or functions of the Secretary of State;".

[156] 7 U.S.C. 1736a. Sec. 407 was amended by sec. 8 of Public Law 90-436. It formerly read as follows:

"Sec. 407. There is hereby established an advisory committee composed of the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Bureau of the Budget, the Administrator of the Agency for International Development, the chairman, the vice chairman and the two ranking minority members of the House Committee on Agriculture and the House Committee on Foreign Affairs, and the chairman, the next ranking majority member and the two ranking minority members of the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations. The advisory committee shall survey the general policies relating to the administration of the Act, including the manner on implementing the self-help provisions, and uses to be made of foreign currencies which accrue in connection with sales for foreign currencies under title I, the amount of currencies to be reserved in

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the Secretary of Agriculture, the Director of the Bureau of the Budget, the Administrator of the Agency for International Development, the chairman [157] and the ranking minority member of both the House Committee on Agriculture and the House Committee on Foreign Affairs, and the chairman and the ranking minority member of both the Senate Committee on Agriculture and Forestry and the Senate Committee on Foreign Relations, or their designees (who shall be members of such committees or, in the case of members from the executive branch, who shall have been confirmed by the Senate).[158] The Advisory Committee shall survey the general policies relating to the administration of the Act, including the manner of implementing the self-help provisions, and uses to be made of foreign currencies which accrue in connection with sales for foreign currencies under title I, the amount of currencies to be reserved in sales agreements for loans to private industry under section 104(e), rates of exchange, interest rates, and the terms under which dollar credit sales are made, and shall advise the President with respect thereto. The Advisory Committee shall meet not less than four times during each calendar year at the call of the Acting Chairman of such Committee who shall preside in the following order: The chairman of the House Committee on Agriculture, the chairman of the Senate Committee on Foreign Relations, the chairman of the Senate Committee on Agriculture and Forestry, and the chairman of the House Committee on Foreign Affairs.

Sec. 408.[159] (a) [160] The President shall make a report to Congress not later than February 15 [161] each year with respect to the activities carried out under this Act during the preceding fiscal [162] year. Such report shall describe the progress of each country with which agreements are in effect under title I in carrying out its agreements under such title.

(b) [163] Not later than September 30 of each year, the President shall submit to the Congress a report containing a global assessment of food production and needs and setting forth planned programing of food assistance under titles I and II [164] for the coming fiscal year. Not later than December 31, and June 30 of each year,[165] the President shall submit a report to the Congress showing the current status of planned programing of food assistance under titles I and II [164] for the current fiscal year.

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sales agreements for loans to private industry under section 104(e), rates of exchange, interest rates, and the terms under which dollar credit sales are made, and shall advise the President with respect thereto."

[157] The function of the Administrator of AID under this section was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

[158] The phrase commencing with ", or their designees (who shall be members * * *" was added by sec. 210 of Public Law 94-161 (89 Stat. 854).

[159] 7 U.S.C. 1746b. Sec. 408 was added by sec. 2(E) of Public Law 80-808 (80 Stat. 1537).

[160] Subsection designation "(a)" was added by sec. 211(1) of Public Law 94-161 (89 Stat. 854).

[161] This date was changed from April 1 to February 15 by sec. 1215 of Public Law 97-98 (95 Stat. 1282).

[162] Sec. 211(2) of Public Law 94-161 (89 Stat. 854) substituted the word "fiscal" in lieu of "calendar".

[163] Subsecs. (b) and (c), as added by sec. 211(3) of Public Law 94-161 (89 Stat. 854) were amended and restated by sec. 213 of the International Development and Food Assistance Act of 1977 (Public Law 95-88, 91 Stat. 551).

[164] Sec. 1006 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 271), added the reference to title II.

[165] An additional status report due on March 31 of each year was removed from this reporting requirement by sec. 213 of Public Law 96-470 (94 Stat. 2246).

(c)[163] Beginning October 1, 1978, and at each five-year interval thereafter, the President shall submit to the Congress a comparative cross-country evaluation of programs conducted under titles II and III. Such evaluations shall cover no fewer than five countries sampled from the developing regions (Asia, Africa, Latin America, and the Caribbean), and shall assess the nutritional and other impacts, achievements, problems, and future prospects for programs under these titles.

(d)[166] (1) Not later than six months following the date of enactment of this subsection, and at each two-year interval thereafter, the Secretary of Agriculture shall issue revised regulations governing all operations under title I of this Act, including operations relating to purchasing countries, suppliers of commodities or ships, and purchasing or shipping agents. The regulations shall include, but not be limited to, prohibitions against conflicts of interest, as determined by the Secretary, between (A) recipient countries (or other purchasing entities) and their agents, (B) supplies of commodities, (C) supplies of ships, and (D) other shipping interests.

(2) The regulations shall be designed to encourage an increase in the number of exporters participating in the program.

(3) All revised regulations governing operations under title I and title III of this Act shall be transmitted to Congress by the Secretary as soon as practicable after their issuance.

(e)[166] Bagged commodities for the purpose of financing by the Commodity Credit Corporation under this Act may, subject to regulations issued by the Secretary of Agriculture, be considered "exported" upon delivery at port, and upon presentation of a dock receipt in lieu of an on-board bill of lading.

Sec. 409.[167] No agreement to finance sales under title I and no programs of assistance under title II shall be entered into after December 31, 1990. New spending authority provided for title I of this Act by the amendments to this section made by the Agriculture and Food Act of 1981[168] and the Food Security Act of 1985[169] shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Sec. 410.[170] The provisions of section 620(e) of the Foreign Assistance Act of 1961, as amended (referring to nationalization, expropriation, and related governmental Acts affecting property owned by United States citizens), shall be applicable to assistance provided under title I of this Act.

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[166] Subsecs. (d) and (e) were added by sec. 1207 of the Food and Agriculture Act of 1977 (Public Law 95-113, 91 Stat. 957).

[167] 7 U.S.C. 1736c. Sec. 409 was added by sec. 2(E) of Public Law 89-808 (80 Stat. 1537). Sec. 1 of Public Law 90-436 changed the date to December 31, 1970. Sec. 701 of Public Law 91-524 (84 Stat. 1379), changed the date to December 31, 1973. Sec. 1(26) of Public Law 93-86 (87 Stat. 237) changed the date to December 31, 1977. Sec. 1208 of the Food and Agriculture Act of 1977 (91 Stat. 957) changed the date to December 31, 1981, and added the final sentence. Sec. 1216(1) of Public Law 97-98 (95 Stat. 1282) changed the date to December 31, 1985. Sec. 1105 (1) of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1466), changed the date to December 31, 1990.

[168] This reference to the Agriculture and Food Act of 1981 was substituted in lieu of a reference to the Food and Agriculture Act of 1977 by sec. 1216(2) of Public Law 97-98 (95 Stat. 1282).

[169] The reference to the Food Security Act of 1985 was added by sec. 1105(2) of that Act (Public Law 99-198, 99 Stat. 1466).

[170] 7 U.S.C. 1736d. Sec. 410 was added by sec. 2(E) of Public Law 89-808 (80 Stat. 1538).

Sec. 411.[171] No agricultural commodities shall be sold under title I or title III or donated under title II of this Act to North Vietnam, unless by an Act of Congress enacted subsequent to July 1, 1973, assistance to North Vietnam is specifically authorized.

Sec. 412.[172] The President is authorized and encouraged to seek international agreement, subject to congressional approval, for a system of food reserves to meet food shortage emergencies and to provide insurance against unexpected shortfalls in food production, with costs of such a system to be equitably shared among nations and with farmers and consumers to be given firm safeguards against market price disruption from such a system.

Sec. 413.[173] In order to best meet the humanitarian and developmental purposes of this Act, commodities provided under this Act for developmental purposes shall be made available, to the maximum extent practicable, on a multiyear basis when necessary for the most effective accomplishment of these purposes.

NOTE.—Section 5 of Public Law 85-128 [S. 1314], 71 Stat. 345, approved August 13, 1957, makes the following provision for reporting to Congress:

"(5) Within sixty days after any agreement is entered into for the use of any foreign currencies, a full report thereon shall be made to the Senate and the House of Representatives of the United States and to the Committees on Agriculture and Appropriations thereof."

NOTE.—Section 3 of Public Law 84-962 [S. 3903], 70 Stat. 988, approved August 3, 1956, provides:

"Sales of fresh fruit and the products thereof under title I of the Act shall be exempt from the requirements of the cargo preference laws (Public Resolution 17, Seventy-third Congress (15 U.S.C. 616a) and section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241 (b)))."

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[171] 7 U.S.C. 1736e. Sec. 411 was added by Public Law 93-86 (87 Stat. 237).

[172] 7 U.S.C. 1736f. Sec. 412 was added by sec. 212 of Public Law 94-161 (89 Stat. 855).

[173] 7 U.S.C. 1736g. Sec. 413 was added by sec. 210 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 370).

NOTE.—Section 709 of Public Law 89-321 [H.R. 9811] (Food and Agriculture Act of 1965), 79 Stat. 1212, approved November 3, 1965, provides:

"The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action,[174] and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes."

NOTE.—Section 407 of the Agricultural Act of 1949, as amended, and found at 7 U.S.C. 1427, provides the minimum prices the Commodity Credit Corporation may sell farm commodities owned or controlled by it.

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[174] The words "foreign distribution" which appeared at this point were struck out by sec. 3(B) of the Food for Peace Act of 1966, effective January 1, 1967. The authority to purchase dairy products for foreign donation is now provided in the general authority stated in sec. 201 of Public Law 480. See also sec. 416 of the Agricultural Act of 1949 which provides for, among other things, the donation of dairy products through foreign governments and public and nonprofit private humanitarian organizations.

b. Extension of Agricultural Trade Development and Assistance Act of 1954, as amended

Partial text of Public Law 85-931 [S. 3420], 72 Stat. 1790, approved September 6, 1958, as amended by Public Law 87-703 [H.R. 12391], 76 Stat. 605 at 611, approved September 27, 1962, and by Public Law 89-808 [H.R. 14929], 80 Stat. 1526 at 1538, approved November 11, 1966

AN ACT To extend and amend the Agricultural Trade Development and Assistance Act of 1954.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * *

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NOTE.—Except for Sections 7, 8, and 9, reprinted below, the whole of Public Law 85-931 consists of amendments to the Agricultural Trade Development and Assistance Act of 1954, as amended.

* * * * * * *

Sec. 7. Section 206(a) of the Agricultural Act of 1956 [1] is amended by inserting before the period at the end thereof a semicolon and the following: "but no strategic or critical material shall be acquired by the Commodity Credit Corporation as a result of such barter or exchange except for such national stockpile, for such supplemental stockpile, for foreign economic or military aid or assistance programs, or for offshore construction programs".

Sec. 8.[2] In carrying out the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended, extra long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act in the same manner as upland cotton or any other surplus agricultural commodity is made available, and products manufactured entirely [3] from upland or long staple cotton shall be made available for sale pursuant to the provisions of title I of the Act as long as cotton is in surplus supply in the same manner as any other agricultural commodity or product is made available, and no discriminatory or other conditions shall be imposed which will prevent or tend to interfere with their sale or availability for sale under the Act.[4]

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[1] 7 U.S.C. 1856.

[2] 7 U.S.C. 1601 note.

[3] The word "entirely" and the words "in the same manner as any other agricultural commodity or product is made available" were added by sec. 3(d) of Public Law 89-808 (Food for Peace Act of 1966).

[4] Sec. 3(d) of Public Law 89-808 inserted a period in lieu of a colon and struck out a proviso, which read as follows: "*Provided,* That that portion of sales price of such products which is fi-

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Sec. 9.[5] Notwithstanding any other provision of law 6 those areas under the jurisdiction or administration of the United States are authorized to receive from the Department of Agriculture for distribution on the same basis as domestic distribution in any State, Territory, or possession of the United States, without exchange of funds, such surplus commodities as may be available pursuant to clause (2) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), and section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431).[6]

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nanced as a sale for foreign currency under title I of the Act shall be limited to the estimated portion of the sales price of such products attributable to the raw cotton content of such products".

[5] 7 U.S.C. 1431b.

[6] Sec. 3(a) of Public Law 89-808 struck out the symbol "(1)" after the word "law"; inserted a period in lieu of a semicolon, and struck out the language after the semicolon, which read as follows: "and (2) the Commodity Credit Corporation is authorized to purchase products of oil seeds, and edible oils and fats and the products thereof in such form as may be needed for donation abroad as provided in the following sentence. Any such commodities or products if purchased shall be donated to nonprofit voluntary agencies registered with the Department of State, other appropriate agencies of the Federal Government or international organizations for use in the assistance of needy persons and in nonprofit school lunch programs outside the United States. Commodity Credit Corporation may incur such additional costs with respect to such oil as it is authorized to incur with respect to food commodities disposed of under section 416 of the Agricultural Act of 1949."

The words "and in nonprofit school lunch programs" were added by sec. 204 of Public Law 87-703 (76 Stat. 611).

c. President's Emergency Food Assistance Act of 1984

Partial text of Public Law 98-473 [Continuing Appropriations Act, 1985; H.J. Res. 648], 98 Stat. 1837 at 2194, approved October 12, 1984

JOINT RESOLUTION Making continuing appropriations for the fiscal year 1985, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE III—PRESIDENT'S EMERGENCY FOOD ASSISTANCE ACT OF 1984

SHORT TITLE

Sec. 301. This title may be cited as the "President's Emergency Food Assistance Act of 1984".

PART A—PRESIDENT'S EMERGENCY FUND

FINDINGS

Sec. 302. The Congress finds that—

(1) acute food crises continue to cause loss of life, severe malnutrition, and general human suffering in many areas of the Third World, especially in sub-Saharan Africa;

(2) the United States continues to respond to these needs, as a reflection of its humanitarian concern for the people of the Third World, with emergency food and other necessary assistance to alleviate the suffering of those affected by severe food shortages;

(3) the timely provision of food and other necessary assistance to those in need is of paramount importance if the worst effects of such food crisis are to be mitigated; and

(4) the ability of the United States to provide food and other necessary assistance on a timely basis, and to ensure that such assistance is distributed to those in need, should be enhanced in order to better enable the United States to help those affected by severe food shortages.

ESTABLISHMENT OF THE FUND

Sec. 303. (a) There is hereby established the President's Emergency Food Assistance Fund (hereafter in this title referred to as the "Fund"). Whenever the President determines it to be in the national interest of the United States, he is authorized to furnish, in accordance with the provisions of this part, and on such terms and conditions as he may determine, assistance from the Fund for the purpose of alleviating the human suffering of peoples outside the

United States caused by acute food shortages. Such assistance may be provided through such governments or other entities, private or public, including intergovernmental and multilateral organizations, as the President deems appropriate.

(b) Because the effects of severe food shortages will vary with the country or region, assistance to alleviate human suffering may include the provision of food assistance or such activities as the provision of seed, animal fodder, animal vaccines, and transportation (including inland transportation) and distribution services.

(c) There are authorized to be appropriated to the President $50,000,000 each for fiscal year 1985 and fiscal year 1986 to carry out the purposes of this title, to remain available until expended.

(d) The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations in furtherance of the purposes and within the limitations of this title.

REPORTS

Sec. 304. Not later than December 31 of each year, the President shall submit a comprehensive report to the appropriate committees of Congress detailing all activities carried out under the authority of this title during the previous fiscal year.

Part B—Food for Peace Program

TRANSPORTATION AND STORAGE

Sec. 305. Section 203 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after the semicolon at the end of clause (4) the following: "in the case of commodities for urgent and extraordinary relief requirements, including prepositioned commodities, transportation costs from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs;".

d. Food and Agriculture Act of 1977

Partial text of Public Law 95-113 [S. 275], 91 Stat. 913, approved September 29, 1977

AN ACT To provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Food and Agriculture Act of 1977".

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TITLE XII—PUBLIC LAW 480

NOTE.—Sections 1201-1208 of Title XII amend the Agricultural Trade Development and Assistance Act of 1954.

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USE OF NONPRICE-SUPPORTED COMMODITIES UNDER PUBLIC LAW 480

Sec. 1209.[1] It is the sense of Congress that there be no discrimination between "price-supported" and "nonprice-supported" commodities in the programing of commodities under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480).

SPECIAL TASK FORCE ON THE OPERATION OF PUBLIC LAW 480

Sec. 1210.[1] (a) It is the sense of Congress that attention be given to handling, storage, transportation, and administrative procedures in order to make improvements in the operation of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480). Toward this objective, the Secretary of Agriculture shall appoint a special task force to review and report upon the administration of the Act.

(b) Such review shall include, but not be limited to, organizational arrangements for the administration of Public Law 480, or parts thereof, title I allocation criteria and procedures, quality control, including handling and storage through the first stage of distribution in the recipient country, and regulation of businesses and organizations to which services are contracted under Public Law 480.

(c) Not later than eighteen months following enactment of this Act, the Secretary of Agriculture shall transmit to Congress the report of such task force, along with administrative actions the Secretary has taken or intends to take as a result of such report, and recommendations, if any, for legislative changes.

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[1] 7 U.S.C. 1691 note.

e. Agricultural Exports

Partial text of Public Law 98-258 [Agricultural Programs Adjustment Act of 1984, H.R. 4072], 98 Stat. 130, approved April 10, 1984

AN ACT To make adjustments in the commodity programs for wheat, feed grains, upland cotton, and rice, to provide agricultural credit assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Programs Adjustment Act of 1984".

* * * * * * *

TITLE V—AGRICULTURAL EXPORTS

EXPORT ASSISTANCE

Sec. 501. It is the sense of Congress that the President should implement, as soon as practicable after the enactment of this Act, the actions, proposed by the Administration to complement the provisions of this Act, to further assist in the development, maintenance, and expansion of international markets for United States agricultural commodities and products thereof, as follows—

(1) for the fiscal year ending September 30, 1984, the President will—

(A) request congressional approval for the appropriation of funds in the amount of $150,000,000, in addition to the President's February 1984 request for a supplemental appropriation of $90,000,000, to carry out programs of assistance under titles I, II, and III of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480);[1] and

(B) direct the Secretary of Agriculture to increase funding, over the current budgeted level, for the Export Credit Guarantee Program (GSM-102), carried out through the Commodity Credit Corporation, by not less than $500,000,000; and

(2) for the fiscal year ending September 30, 1985, the President will—

(A) request congressional approval for the appropriation of funds in the amount of at least $175,000,000, in addition to the current funding level contained in the President's budget for that year, to carry out programs of assistance under titles I, II, and III of Public Law 480;

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[1] Second Supplemental Appropriations Act, 1984, (Public Law 98-396, 98 Stat. 1369 at 1371) provided:

"For an additional amount for 'Public Law 480', for financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms, pursuant to titles I and III of said Act, $175,000,000, of which $175,000,000 is hereby appropriated, to remain available until September 30, 1985."

(B) direct the Secretary of Agriculture to increase funding, over the levels contained in the President's budget for that year or otherwise required by law, by not less than $1,100,000,000 for the Export Credit Guarantee Program (GSM–102) and by not less than $100,000,000 for direct export credit programs carried out through the Commodity Credit Corporation (GSM–5, GSM–201, and GSM–301); and

(C) request or use an additional amount of $50,000,000 (over the amounts specified in clauses (2)(A) and (2)(B)) either for increased funding for direct export credit programs carried out through the Commodity Credit Corporation or for additional assistance under Public Law 480, in such proportions as determined necessary and appropriate by the President.

EXPANDED AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS; ACQUISITION AND DONATION OF ULTRA-HIGH TEMPERATURE PROCESSED MILK

Sec. 502. * * * [2]

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[2] Sec. 502 amended sec. 416 of the Agricultural Act of 1949 by adding new subsections (b) and (c).

f. Agricultural Act of 1949

Partial text of Public Law 81–439 [H.R. 5345], 63 Stat. 1051, approved October 31, 1949; as amended by Public Law 83–480 [S. 2475], 68 Stat. 458, approved July 10, 1954; Public Law 84–540 [H.R. 10875], 70 Stat. 203, approved May 28, 1956; Public Law 85–483 [H.R. 12164], 72 Stat. 286, approved July 2, 1958; Public Law 86–108 [H.R. 7500], 73 Stat. 250, approved July 24, 1959; Public Law 87–703 [H.R. 12391], 76 Stat. 611, approved September 27, 1962; Public Law 88–638 [S. 2687], 78 Stat. 1038, approved October 8, 1964; Public Law 89–808 [H.R. 14929], 80 Stat. 1538, approved November 11, 1966; Public Law 91–233 [S. 2595], 84 Stat. 199, approved April 17, 1970; Public Law 92–603 [H.R. 1], 86 Stat. 1492, approved October 30, 1972; Public Law 95–113 [S. 275], 91 Stat. 913, approved September 29, 1977; Public Law 97–253 [Omnibus Budget Reconciliation Act of 1982, H.R. 6955], 96 Stat. 766, approved September 8, 1982; Public Law 98–258 [Agricultural Programs Adjustment Act of 1984, H.R. 4072], 98 Stat. 137, approved April 10, 1984; Public Law 99–83 [S. 960], 99 Stat. 271, approved August 8, 1985; Public Law 99–198 [H.R. 2100], 99 Stat. 1354, approved December 23, 1985; Public Law 99–260 [Food Security Improvements Act of 1986, H.R. 1614], 100 Stat. 45, approved March 20, 1986; Public Law 100–203 [Omnibus Budget Reconciliation Act of 1987, H.R. 3545], 101 Stat. 1330, approved December 22, 1987; Public Law 100–277 [Agricultural Act of 1949, Amendment, S. 2151], 102 Stat. 67, approved April 4, 1988; and by Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107, approved August 23, 1988

AN ACT To stabilize prices of agricultural commodities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1949".

* * * * * * *

Sec. 107F.[1] (a)(1) The Secretary may establish a program, applicable to any of the 1986 through 1990 crops of wheat or feed grains, to provide incentives for the export of any of such crops of wheat and feed grains from private stocks. The program for any such crop established under this subsection by the Secretary shall include the following terms:

(A) The Secretary shall issue wheat or food grain export certificates to producers to whom the Secretary makes loans and payments under section 107D or 105C, respectively, for a crop if such producers comply with the terms and conditions of the program for such crop.

(B) Each such certificate shall bear a monetary denomination and a designation specifying a quantity of the crop of the commodity involved, selected by the Secretary.

(C) The aggregate quantity of wheat or feed grains specified in all export certificates distributable to eligible producers of the crop involved shall be equal to—

(i) the aggregate amount of wheat or feed grains produced by producers participating in the program for the crop under section 107D or 105C, as determined by multiplying the acreage planted by each such producer for harvest times the farm program payment yield for the commodity, times

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[1] 7 U.S.C. 1445b–5. Sec. 107F was added by sec. 1006 of the Food Security Act of 1985 (Public Law 99–198, 99 Stat. 1448).

(ii) an export production factor.

For purposes of this subparagraph, the export production factor for a crop shall be determined by the Secretary by dividing the quantity of such crop harvested domestically that the Secretary estimates will not be used domestically and will be available for export (excluding the portion of the crop expected to be added to carryover stocks) during the marketing year for such crop by the quantity of such crop that the Secretary estimates will be harvested domestically.

(D) Wheat or feed grain export certificates shall be distributed among eligible producers in a manner that will ensure that each eligible producer receives certificates having an aggregate face value that represents an equal rate of return per unit of wheat or feed grains produced by such producer for such crop. For purposes of determining such rate of return, the Secretary shall take into consideration regional variations in the costs incurred by producers to market the commodity (including transportation costs).

(E) An export certificate issued under this subsection shall be redeemed by the Secretary for a cash amount equal to the monetary denomination on such certificate (or, at the option of the Secretary, a quantity of the commodity involved having a current fair market value equal to such amount) only on presentation by a holder who exports a quantity of the crop involved (including processed wheat or feed grains) equal to the quantity designated in the certificate and only if the Secretary has not redeemed previously an export certificate issued under this subsection presented in connection with the particular wheat or feed grains so exported.

(2) The Secretary shall carry out this subsection through the Commodity Credit Corporation. If sufficient funds are available to the Corporation, there shall be expended to carry out this subsection with respect to the export of the crop of wheat or feed grains involved an amount not less than the product of multiplying—

(A) 21 cents for wheat, 11 cents for corn and such amounts for grain sorghums, oats, and, if designated by the Secretary, barley as the Secretary determines fair and reasonable in relation the amount specified for corn, times.

(B) the aggregate of the wheat or feed grain acreage planted to the commodity for harvest by producers participating in the program for the crop with respect to which deficiency payments are available under section 107D or 105C, times.

(C) the average of the program yields for the crop.

(3) Funds expended to carryout export certificate programs established under this subsection shall be in addition to, and not in place of, funds authorized by any other law to be expended to finance or encourage the export of wheat or feed grains.

(4) For purposes of facilitating the transfer of export certificates under this subsection, the Commodity Credit Corporation may buy

and sell certificates in accordance with regulations prescribed by the Secretary.

(b)(1) Effective for each of the 1986 through 1990 crops of wheat or feed grains, the Secretary may issue to eligible producers (who, for purposes of this subsection, are producers of wheat or feed grains participating in the program under this Act for such crop who meet the requirements of paragraph (2)) export marketing certificates, denominated in bushels of wheat or feed grains, as applicable, for the crop, which shall be used, under such terms and conditions as the Secretary may prescribe consistent with the provision of this subsection, as follows:

(A) Not later than 3 months before the beginning of the marketing year for a crop of wheat or feed grains, the Secretary may issue to eligible producers that plant at least 50 percent of the farm's wheat or feed grain crop acreage base for such crop, export marketing certificates to be applicable to such marketing year that, in the aggregate, shall equal the quantity of the commodity and the Secretary estimates will be exported during the marketing year. Each such eligible producer shall receive certificates for a quantity of the commodity that bears the same ratio to the quantity of estimated exports as the producer's crop acreage base for that crop of the commodity bears to the aggregate total of all such eligible producers' crop acreage bases for that crop, rounded upward to the nearest full bushel.

(B) The denomination of export marketing certificates shall be 1 bushel (with no accompanying cash face value, except that the Secretary may issue certificates in multiples of such denomination, and any certificate in the multiple of such denomination, may be exchanged by the producer, at the country Agricultural Stabilization and Conservation Service Office, for certificates representing an equivalent quantity of the commodity in different multiples, to facilitate the operation of the program under this subsection. Each export marketing certificate shall designate the producer by name and the crop involved.

(C) If 7 months after the beginning of the marketing year for the crop, the Secretary determines that the amount of the commodity that will be exported during the marketing year for that crop will exceed the aggregate quantity of the commodity represented by all the export marketing certificates so issued, the Secretary may issue additional export marketing certificates to producers that initially received certificates for the crop sufficient to cover the additional exports, such certificates to be apportioned among such producers so that producer receives the same portion of the additional certificates issued that the producer received of the export certificates initially issued for the crop, as provided in subpararaph (A), rounded upward to the nearest full bushel.

(D) Producers may convey export marketing certificates issued under this subsection to purchasers of the commodity involved sold by the producers at any time prior to the end of the marketing year for the crop described in the certificate. If a producer has less wheat or feed grains to sell than the quantity represented by the export marketing certificates issued to the producer, because of reduced production or other reason or because, in the case of additional certificates issued under subparagraph (C), the producer had disposed of the producer's wheat or feed grains prior to the issuance of such additional certificates, the producer, at any time prior to the end of the marketing year for the crop involved, may sell the extra export marketing certificates to any person for such price as agreed on by the producer and purchaser. Any certificate may be reconveyed without restriction.

(2) To be eligible to receive export certificates under this subsection for a crop of wheat or feed grains, a producer of such commodity must participate in the program under this title for such crop, and—

(A) if there is no acreage limitation or set-aside in effect for the crop, limit the acreage on the farm planted to the crop for harvest to the farm's wheat or feed grain crop acreage base, as applicable;

(B) if an acreage limitation is in effect for the crop, limit the acreage on the farm planted to the crop for harvest to the farm's wheat or feed grain crop acreage base, as applicable, reduced to the extent required under the acreage limitation program, and comply with any other terms of the acreage limitation program established by the Secretary; or

(C) if a set-aside program is in effect for the crop, comply with the set-aside and other terms of the set-aside program established by the Secretary.

(3) Whenever the Secretary issues certificates under this subsection for a crop of wheat or feed grains, no person may export wheat or feed grains or products thereof, from the United States during the marketing year for the crop without surrendering to the Secretary, at the time of export, export marketing certificates for such crop representing the quantity of the commodity being exported or, in the case of wheat or feed grain products, the equivalent quantity of the commodity contained in the products being exported. Persons that fail to comply with the requirements of the preceding sentence shall be subject, for each violation thereof, to a fine of not more than $25,000 or imprisonment for not to exceed 1 year, or both such fine and imprisonment. This paragraph shall not apply to exports of commodities or products owned by the Federal Government or any agency or instrumentality thereof, not to commodities or products provided to the exporter by the Commodity Credit Corporation under an export development program.

(4) Any person who falsely makes, issues, alters, forges, or counterfeits any export marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited export marketing certificate, shall be subject to a fine of not more than $10,000 or imprisonment of not more than 10 years, or both such fine and imprisonment.

(5) For purposes of facilitating the transfer of export certificates under this subsection, the Commodity Credit Corporation may buy

and sell certificates in accordance with regulations prescribed by the Secretary.

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INTERNATIONAL EMERGENCY FOOD RESERVE

Sec. 111.[2] The President is encouraged to enter into negotiations with other nations to develop an international system of food reserves to provide for humanitarian food relief needs and to establish and maintain a food reserve, as a contribution of the United States toward the development of such a system, to be made available in the event of food emergencies in foreign countries. The reserves shall be known as the International Emergency Food Reserve.".

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Sec. 416.[3] (a)[4] In order to prevent the waste of commodities whether private stocks[5] or acquired through price-support operations by Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children,[6] in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served.[7] In the case of clause (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clause (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency, or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible.[8] For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition.[9] Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965.[10]

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[2] Sec. 111 was added by sec. 1102 of Public Law 95–113 (91 Stat. 953).

[3] 7 U.S.C. 1431. Sec. 302 of Public Law 83–480 (68 Stat. 458) comprehensively amended and restated sec. 416.

[4] Sec. 502 of Public Law 98–258 (98 Stat. 137) inserted the subsec. designation "(a)" and added new subsecs. (b) and (c).

See also sec. 513 of Public Law 98–411 (Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985) that stated the sense of the Congress that the newly enacted authority under sec. 416 of this Act should be used to help feed the Guatemalan refugees in Mexico.

[5] Sec. 205(c) of Public Law 86–108 (73 Stat. 250) added the reference to private stocks.

[6] Sec. 1 of Public Law 85–483 (72 Stat. 286) added the reference to nonprofit summer camps for children.

[7] Sec. 3(c) of Public Law 89–808 (80 Stat. 1538) struck out clause (4) which previously appeared at this point. Clause (4) provided for the donation of excess food commodities to nonprofit voluntary agencies registered with the Committee on Voluntary Foreign Aid or other appropriate Federal agencies and intergovernmental organizations for use in assistance of needy persons and in nonprofit lunch programs outside the United States. The authority for such assistance was shifted to title II of Public Law 480.

(b)[4, 11] (1) The Secretary, subject to the requirements of paragraph (10), may furnish eligible commodities for carrying out programs of assistance in developing countries and friendly countries under title II of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, as approved by the Secretary, and for such purposes as are approved by the Secretary. To ensure that the furnishing of commodities under this subsection is coordinated with and complements other United States foreign assistance, assistance under this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954.

(2) As used in this subsection, the term 'eligible commodities' means—

(A) dairy products, wheat, rice, feed grains,[12] and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof,[12] that the Secretary determines meet the criteria specified in subsection (a); and

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[8] Sec. 212 of Public Law 84-540 (70 Stat. 203) added this sentence.

[9] Public Law 91-233 (84 Stat. 199) added this sentence.

Another sentence, that previously appeared at this point, was repealed by sec. 1302(a)(2) of Public Law 95-113 (91 Stat. 979). This sentence, added by sec. 411(g) of Public Law 92-603 (86 Stat. 1492), prohibited persons eligible to receive supplementary income under title XVI of the Food Stamp Act of 1964 from participating in any program conducted under sec. 416.

[10] Sec. 1109(1) of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1467), deleted at this point language authorizing donation of such dairy products for the assistance of needy persons outside the United States. This text was originally added by sec. 110 of the Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253, 96 Stat. 766).

[11] Sec. 1109(2) of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1467), comprehensively amended and restated subsec. b.

[12] Subsec. (b)(2)(A) was amended by sec. 1 of Public Law 100-277 (102 Stat. 67) which added the words "wheat, rice, and feed grains" in lieu of "grains", and inserted ", and the products thereof," after "price support operations".

(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under this subsection, except that no such commodities may be acquired for the purpose of their use under this subsection.

(3)(A) Commodities may not be made available for disposition under this subsection in amounts that (i) will in any way reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies, or (ii) will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program under this Act or other Acts administered by the Secretary.

(B)(i) The requirements of section 401(b) of the Agricultural Trade Development and Assistance Act of 1954 shall apply with respect to commodities furnished under this subsection. Commodities may not be furnished for disposition to any country under this subsection except on determinations by the Secretary that—

(I) the receiving country has the absorptive capacity to use the commodities efficiently and effectively; and

(II) such disposition of the commodities will not interfere with usual marketings of the United States, nor disrupt world prices of agricultural commodities and normal patterns of commercial trade with developing countries.

(ii) The requirement for safeguarding usual marketings of the United States shall not be used to prevent the furnishing under this subsection of any eligible commodity for use in countries that—

(I) have not traditionally purchased the commodity from the United States; or

(II) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

(C) The Secretary shall take reasonable precautions to ensure that—

(i) commodities furnished under this subsection will not displace or interfere with sales that otherwise might be made; and

(ii) sales or barter under paragraph (7) will not unduly disrupt world prices of agricultural commodities nor normal patterns of commercial trade with friendly countries.

(D) [13] If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.

(4) Agreements may be entered into under this subsection to provide eligible commodities in installments over an extended period of time. In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear

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[13] Subsec. (D) was added by sec. 2 of Public Law 100-277 (102 Stat. 67).

agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.[14]

(5)(A) Section 203 of the Agricultural Trade Development and Assistance Act of 1954 shall apply to the commodities furnished under this subsection.

(B) The Commodity Credit Corporation may pay the processing and domestic handling costs incurred, as authorized under this subsection, in the form of eligible commodities, as defined in paragraph (2)(A), if the Secretary determines that such in-kind payment will not disrupt domestic markets.

(6) The cost of commodities furnished under this subsection, and expenses incurred under section 203 of the Agricultural Trade Development and Assistance Act of 1954 in connection with those commodities, shall be in addition to the level of assistance programmed under that Act and shall not be considered expenditures for international affairs and finance.

(7) Eligible commodities [15] furnished under this subsection may be sold or bartered only with the approval of the Secretary and solely as follows:

(A) Sales and barter that are incidental to the donation of the commodities or products.

(B) Sales and barter to finance the distribution, handling, and processing costs of the donated commodities or products in the importing country or in a country through which such commodities or products must be transshipped, or other activities in the importing country that are consistent with providing food assistance to needy people.

(C) Sales and barter of commodities and products furnished to intergovernmental agencies or organizations, insofar as they are consistent with normal programming procedures in the distribution of commodities by those agencies or organizations.

(D)(i) Sales of commodities and products furnished to nonprofit and voluntary agencies, or cooperatives, for food assistance under agreements that provide for the use, by the agency or cooperative, of foreign currency proceeds generated from such sale of commodities or products for the purposes established in clause (ii) of this subparagraph.

(ii) [16] Foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

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[14] The text to this point beginning with "In agreements with" was added by sec. 2 of Public Law 100-277 (102 Stat. 67).

[15] The text ", and products thereof," which previously appeared at this point was deleted by sec. 1(a)(b)(2) of Public Law 100-277 (102 Stat. 67).

[16] Clause (ii) was amended and restated by sec. 4(a) of Public Law 100-277 (102 Stat. 67). Clause (ii) previously read as follows:

"(ii) Foreign currency proceeds generated from the sales of commodities and products under this subparagraph shall be used by nonprofit and voluntary agencies, or cooperatives, for activities carried out by the agency or cooperative that will enhance the effectiveness of transportation, distribution, and use of commodities and products donated under this subsection, including food for work programs and cooperative and agricultural projects."

(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.

In addition, foreign currency proceeds generated in Poland may also be used by such agencies or cooperatives for eligible activities approved by the joint commission [17] established pursuant to section 2226 of the American Aid to Poland Act of 1988 [18] and by the Untied States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland; and

(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture.[19]

(iii) Except as otherwise provided in clause (v), such agreements, taken together for each fiscal year, shall provide for sales of commodities and products for foreign currency proceeds in amounts that are, in the aggregate, not less than 10 [20] percent of the aggregate value of all commodities and products furnished, or the minimum tonnage required, whichever is greater,[20] for carrying out programs of assistance under this subsection in such fiscal year. The minimum allocation requirements of this clause apply with respect to commodities and products made available under this subsection for carrying out programs of assistance under title II of the Agricultural Trade Development and Assistance Act of 1954, and not with respect to commodities and products made available to carry out the Food for Progress Act of 1985.

(iv) Foreign currency proceeds generated from the sale of commodities or products under this subparagraph shall be expended within the country of origin within one year of acquisition of such currency, except that the Secretary may permit the use of such proceeds (I) in countries other than the country of origin as necessary to expedite the transportation of commodities and products furnished under this subsection, and (II) after one year of acquisition as appropriate to achieve the purpose of clause (i).

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[17] Sec. 2226 of Public Law 100–418 provided the following concerning this joint commission:

"(a)ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

"(b)MEMBERSHIP.—The joint commission shall be composed of—

"(1) appropriate representatives of the Government of Poland;

"(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

"(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service."

[18] For text, see page 733.

[19] Sec. 2225 of Public Law 100–418 added text beginning: "In addition, foreign currency proceeds * * *"

[20] Sec. 4(b) of Public Law 100–277 (102 Stat. 68). inserted "10 percent" in lieu of "5 percent" and added the text ", or the minimum tonnage required, whichever is greater,".

(v) The provisions of clause (iii) of this subparagraph establishing minimum annual allocations for sales and use of proceeds shall not apply to the extent that there have not been sufficient requests for such sales and use of proceeds nor to the extent required under paragraph (3).

(E) Sales and barter to cover expenses incurred under paragraph (5)(a).

No portion of the proceeds or services realized from sales or barter under this paragraph may be used to meet operating and overhead expenses, except as otherwise provided in subparagraph (C) and except for personnel and administrative costs incurred by local cooperatives.

(8)(A) To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

(B) The Secretary shall be responsible for regulations governing sales and barter, and the use of foreign currency proceeds, under paragraph (7) of this subsection that will provide reasonable safeguards to prevent the occurrence of abuses in the conduct of activities provided for in paragraph (7).

(C)(i) [21] If a proposal to make eligible commodities available under this subsection is submitted by a nonprofit and voluntary agency or cooperative with the concurrence of the appropriate United States Government field mission or if a proposal to make such commodities available to a nonprofit and voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, D.C. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

(ii) Not later than 30 days before the issuance of a final guideline issued to carry out this subsection, the Secretary shall—

(I) provide notice of the proposed guideline to nonprofit and voluntary agencies and cooperatives that participate in programs under this subsection, and other interested persons, that the proposed guideline is available for review and comment;

(II) make the proposed guideline available, on request, to nonprofit and voluntary agencies, cooperatives, and others; and

(III) take any comments received into consideration before the issuance of the final guideline.

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[21] Subsec. (C) was added by sec. 5 of Public Law 100–277 (102 Stat. 68).

(iii) Not later that 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this subsection, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

(9)(A) Each recipient of commodities and products approved for sale or barter under paragraph (7) shall report to the Secretary information with respect to the items required to be included in the Secretary's report pursuant to clause (i) through (iv) of subparagraph (B). Reports pursuant to this subparagraph shall be submitted in accordance with regulations of the Secretary. Such regulations shall require at least one report annually, to be submitted not later than December 31 following the end of the fiscal year in which the commodities and products are received; except that a report shall not be required with respect to fiscal year 1985.

(B) Not later than February 15, 1987, and annually thereafter, the Secretary shall report to the Congress on sales and barter, and use of foreign currency proceeds, under paragraph (7) during the preceding fiscal year. Such report shall include information on—

(i) the quantity of commodities furnished for such sale or barter;

(ii) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;

(iii) how such funds and services were used;

(iv) the amount of foreign currency proceeds that were used under agreements under subparagraph (D) of paragraph (7) in such fiscal year, and the percentage of the quantity of all commodities and products furnished under this subsection in such fiscal year such use represented;

(v) the Secretary's best estimate of the amount of foreign currency proceeds that will be used, under agreements under subparagraph (D) of paragraph (7), in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the Secretary estimates will be furnished under this subsection in each such fiscal year;

(vi) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this subsection;

(vii) the extent to which sales, barter, or uses—

(I) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made,

(II) affect usual marketings of the United States,

(III) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries, or

(IV) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

(viii) the Secretary's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under paragraph 7.

(10)(A) Subject to the limitations established under paragraph (3), the Secretary shall make available for disposition under this subsection in each of the fiscal years 1986 through 1990 not less than the minimum quantities of eligible commodities specified in subparagraph (B).

(B) The minimum quantity of eligible commodities that shall be made available for disposition under this subsection in each fiscal year shall be—

(i) 500,000 metric tons of wheat, rice, feed grains,[22] and oilseeds from the Corporation's uncommitted stocks, or an amount equal to 10 percent of the Corporation's uncommitted stocks of wheat, rice, feed grains,[22] and oilseeds as of the end of such fiscal year (as estimated by the Secretary), whichever is less; and

(ii) 10 percent of the Corporation's uncommitted stocks of dairy products, but not less than 150,000 metric tons of such products to the extent that uncommitted stocks are available.

The Secretary shall make such estimation of expected year-end levels of the Corporation's uncommitted stocks prior to the beginning of the fiscal year or, in the case of fiscal year 1986, prior to March 31, 1986.[23] The Secretary's determination as to the amount of the Corporation's stocks that shall be made available for disposition under this subsection for such fiscal year shall be published in the Federal Register, along with a breakdown by kind of commodity and the quantity of each kind of commodity that shall be made available, before the beginning of such fiscal year or, in the case of fiscal year 1986, March 31, 1986.[23]

(C) Of the aggregate amounts made available each fiscal year pursuant to both clauses (i) and (ii) of subparagraph (B), not less than 75,000 metric tons shall be made available to carry out the Food for Progress Act of 1985.

(D)(i) The Secretary—

(I) may waive the minimum quantity requirements of subparagraphs (A) and (B) for a fiscal year to the extent that the Secretary determines and reports to Congress that there are not sufficient requests for eligible commodities under this subsection for such fiscal year, except that the waiver authority of this subclause may not be used to waive the minimum quantity requirement of subparagraph (C);

(II) may waive the minimum quantity requirement of subparagraph (C) in accordance with subsection (f)(2) of the Food for Progress Act of 1985; and

(III) may waive the minimum quantity requirements of subparagraphs (A), (B), and (C) for a fiscal year, if the Secretary determines that the restrictions on the furnishing of commodities under paragraph (3) prevent the making available of commodities in such quantities.

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[22] Sec. 1(b) of Public Law 100-277 (102 Stat. 67) added the words "wheat, rice, and feed grains" in lieu of "grains".

[23] The words to this point beginning with" or, in the case of" were added by sec. 16 of Public Law 99-260 (100 Stat. 55).

(ii) For any fiscal year in which the minimum levels of uncommitted Commodity Credit Corporation stocks specified in subparagraph (B) are not made available and during which any requests for commodities under this subsection are rejected, the Secretary shall provide a detailed, written explanation to Congress, at the end of such fiscal year, of the reasons for the rejections of such requests.

(11)(A) The Secretary may furnish eligible commodities under this subsection in connection with (i) concessional sales agreements entered into under title I of the Agricultural Trade Development and Assistance Act of 1954 or other statutes, or (ii) agricultural export bonus or promotion program carried out under the Commodity Credit Corporation Charter Act or other statutes.

(B) Eligible commodities may be furnished by the Secretary under this subsection in connection with agreements by recipient countries to acquire additional agricultural commodities from the United States through commercial arrangements.

(C) The amount of any commodity furnished under subparagraphs (A) and (B) of this paragraph in any fiscal year shall not be considered for the purpose of determining whether the requirements of paragraph (10)(A) of this subsection have been met during such fiscal year.

(12) [24] There is authorized to be appropriated for fiscal year 1988, in addition to any other funds authorized to be appropriated, $1,000,000 for technical assistance for the sale or barter of commodities under paragraph (7) to strengthen nonprofit private organizations and cooperatives in the Philippines.

(c) [4] To prevent the waste of dairy products acquired by the Commodity Credit Corporation through price support operations, the Corporation, on such terms and under such regulations as the Secretary may prescribe, shall carry out a two-year pilot program under which the Corporation shall barter or exchange such dairy products, to the extent they are available, for forty thousand metric tons (consisting of twenty thousand metric tons in each year of the pilot program) of ultra-high temperature processed fluid milk. Such barter or exchange shall be effected on the basis of competitive bids submitted by domestic processors. The processed milk acquired by the Corporation under this subsection shall be available for donation through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Corporation may pay, with respect to such processed milk donated under this subsection, transporting, handling, and other charges, including the cost of overseas delivery. Any donations under this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act. The pilot program shall be implemented by the Corporation as soon as practicable after the enactment of the Agricultural Programs Adjustment Act of 1984 and shall be operated for a period of two years after its implementation. Upon completion of the pilot program, the Secretary shall submit a report to Congress on its operation.

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[24] Paragraph (12) was added by sec. 1503 of title I of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203, 101 Stat. 1330–28).

(d)[25] (1) The Secretary shall establish and carry out a pilot program under which strategic or other materials that the United States does not produce domestically in amounts sufficient for its requirements and for which national stockpile or reserve goals established by law are unmet shall be acquired in exchange for commodities meeting the criteria specified in subsection (a).

(2) The program established under paragraph (1) shall be carried out through agreements with at least two countries.

(3) In establishing the pilot program under paragraph (2), the Secretary shall give priority to—

(A) the acquisition of materials that involve less risk of loss through deterioration and have lower storage costs than the agricultural commodities or products for which they are exchanged; and

(B) nations with food and currency reserve shortages.

(4) To the extent practical, the Secretary shall use private channels of commerce to consummate any exchange of commodities for materials under the program.

(5) Any materials acquired under the programs shall be held by the Commodity Credit Corporation and may be transferred, on a reimbursable basis, to any Department or agency of the United States that has responsibility for any reserve or other need for the material. Any material acquired, in excess of any required reserve, may be sold by the Corporation to the extent authorized by the Secretary taking into consideration any effect that such sale may have on the commercial market of such material.

(6) The program established by the Secretary shall be carried out during the fiscal years ending September 30, 1986, and September 30, 1987, and the Secretary shall submit a report to Congress, not later than 60 days after the end of each such fiscal year with respect to the operation of the program.

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[25] Subsec. (d) was added by sec. 1129 of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1486).

g. Food Security Act of 1985

Public Law 99-198 [H.R. 2100], 99 Stat. 1354, approved December 23, 1985, as amended by Public Law 99-260 [Food Security Improvements Act of 1986, H.R. 1614], 100 Stat. 45, approved March 20, 1986; Public Law 100-277 [Agricultural Act of 1949, Amendment; S. 2151], 102 Stat. 67, approved April 4, 1988; Public Law 100-418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107, approved August 23, 1988; and by Public Law 100-435 [Hunger Prevention Act of 1988, S. 2560], 102 Stat 1645, approved September 19, 1988

AN ACT To extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE XI—TRADE

Subtitle A—Public Law 480 and Use of Surplus Commodities in International Programs

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FACILITATION OF EXPORTS

Sec. 1106. It is the sense of Congress that the President should work with the People's Republic of China to facilitate the export of agricultural commodities to the People's Republic of China.

FARMER-TO-FARMER PROGRAM UNDER PUBLIC LAW 480

Sec. 1107.[1] (a) Notwithstanding any other provision of law, not less than one-tenth of 1 percent of the funds available for each of the fiscal years ending September 30, 1986 through September 30, 1990,[2] to carry out the Agricultural Trade Development and Assistance Act of 1954 shall be used to carry out paragraphs (1) and (2) of section 406(a) of that Act. Any such funds used to carry out paragraph (2) of section 406(a) shall not constitute more than one-fourth of the funds used as provided by the first sentence of this subsection, shall be used for activities in direct support of the farmer-to-farmer program under paragraph (1) of section 406(a), and shall be administered whenever possible in conjunction with programs under sections 296 through 300 of the Foreign Assistance Act of 1961.

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[1] 7 U.S.C. 1736 note.

[2] Sec. 6 of Public Law 100-277 (102 Stat. 69) substituted "through September 30, 1990" in lieu of ", and September 30, 1987".

(b) Not later than 120 days after the date of enactment of this Act, the Administrator of the Agency for International Development, in conjunction with the Secretary of Agriculture, shall submit to Congress a report indicating the manner in which the Agency intends to implement the provisions of paragraphs (1) and (2) of section 406(a) of the Agricultural Trade Development and Assistance Act of 1954 with the funds made available under subsection (a).

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FOOD FOR PROGRESS

Sec. 1110.[3] (a) This section may be cited as the "Food for Progress Act of 1985".

(b)[4] In order to use the food resources of the United States more effectively in support of countries that have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketing, input availability, distribution, and private sector involvement, the President is authorized to enter into agreements with developing countries to furnish commodities made available pursuant to subsections (e) and (f) of this section. Such agreements may provide for commodities to be furnished on a multiyear basis.

(c) As used in this section, the term "commodities" means agricultural commodities and the products thereof.

(d) In determining whether to enter into an agreement with countries under this section, the President shall consider whether a potential recipient country is committed to carry out, or is carrying out, policies that promote economic freedom, private, domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of such commodities. Such policies may provide for, among other things—

(1) access, on the part of farmers in the country, to private, competitive markets for their product;

(2) market pricing of commodities to foster adequate private sector incentives to individual farmers to produce food on a regular basis for the country's domestic needs;

(3) establishment of market-determined foreign exchange rates;

(4) timely availability of production inputs (such as seed, fertilizer, or pesticides) to farmers;

(5) access to technologies appropriate to the level of agricultural development in the country; and

(6) construction of facilities and distribution systems necessary to handle perishable products.

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[3] 7 U.S.C. 1736o.

[4] The function vested in the President by sec. 1110(b) of entering into agreements with developing countries and any report requirements concerning such agreements was delegated to the Director of the International Development Cooperation Agency by Executive Order 12583 of February 19, 1987, 52 F.R. 5427. This function may be redelegated to the head of any other agency. Executive Order 12583 also provided that the exercise of this function be coordinated through the Food Aid Subcommittee of the Development Coordination Committee.

(e)(1) The Commodity Credit Corporation shall make available to the President such commodities determined to be available under section 401 of the Agricultural Trade Development and Assistance Act of 1954 as the President may request for purposes of furnishing commodities under this section.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 in carrying out this section with respect to commodities made available under that Act.

(3) The Commodity Credit Corporation may finance the sale and exportation of commodities, made available under the Agricultural Trade Development and Assistance Act of 1954, which are furnished to a developing country under this section. Payment by a developing country for commodities made available under that Act which are purchased on credit terms under this section shall be on the same basis as the terms provided in section 106 of that Act.

(4) In the case of commodities made available under the Agricultural Trade Development and Assistance Act of 1954 for purposes of this section, section 203 of that Act shall apply to commodities furnished on a grant basis to a developing country under this section and section 401(b) of that Act shall apply to all commodities furnished to a developing country under this section.

(f)(1) Commodities made available under section 416(b) of the Agricultural Act of 1949 for use in carrying out this section shall be provided to developing countries on a grant basis.

(2)[5] Not less than 75,000 metric tons shall be made available pursuant to section 416(b)(10)(C) of the Agricultural Act of 1949 to carry out this section unless the President determines there are an insufficient number of eligible recipients.

(3) In carrying out section 416(b) of the Agricultural Act of 1949, the Commodity Credit Corporation may purchase commodities for use under this section if—

(A) the Commodity Credit Corporation does not hold stocks of such commodities; or

(B) Commodity Credit Corporation stocks are insufficient to satisfy commitments made in agreements entered into under this section and such commodities are needed to fulfill such commitments.

(4) No funds of the Commodity Credit Corporation in excess of $30,000,000 (exclusive of the cost of commodities) may be used to carry out this section with respect to commodities made available under section 416(b) of the Agricultural Act of 1949 unless authorized in advance in appropriation Acts.

(5) The cost of commodities made available under section 416(b) of the Agricultural Act of 1949 which are furnished under this section, and the expenses incurred in connection with furnishing such commodities, shall be in addition to the level of assistance programmed under the Agricultural Trade Development and Assist-

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[5] The function vested in the President by sec. 1110(f)(2) of waiving any minimum tonnage requirements was delegated to the Secretary of Agriculture, in accordance with the policy guidance of the Food Aid Subcommittee of the Development Coordination Committee, by Executive Order 12583 of February 19, 1987, 52 F.R. 5427.

ance Act of 1954 and may not be considered expenditures for international affairs and finance.

(g) Not more than 500,000 metric tons of commodities may be furnished under this section in each of the fiscal years 1986 through 1990.

(h) An agreement entered into under this section shall prohibit the resale or transshipment of the commodities provided under the agreement to other countries.

(i) In entering into agreements under this section, the President shall take reasonable steps to avoid displacement of any sales of United States commodities that would otherwise be made to such countries.

(j) Within 90 days after the end of each fiscal year in which an agreement entered into with a country under this section is in effect, the President shall report to the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the status of such agreement and the progress being made to implement private, free enterprise agricultural policies for long-term agricultural development in such country.

(k)[6] In carrying out this section, the President shall, on request and subject to the availability of commodities, approve agreements that provide for commodities to be made available for distribution or sale by recipient countries on a multiyear basis if the agreements otherwise meet the requirements of this section.

(l)[6] This section shall be effective during the period beginning October 1, 1985, and ending September 30, 1990.

SALES FOR LOCAL CURRENCIES; PRIVATE ENTERPRISE PROMOTION

Sec. 1111. (a) * * *

(b) The Congress finds that additional steps should be taken to use the agricultural abundance produced by American farmers—

(1) to relieve hunger and promote long-term food security and economic development in developing countries in accordance with the development assistance policy established under section 102 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151-1); and

(2) to promote United States agricultural trade interests.

CHILD IMMUNIZATION

Sec. 1112. (a) * * *

(b) In the implementation of health programs undertaken in relation to assistance provided under the Agricultural Trade Development and Assistance Act of 1954, it shall be the goal of the organizations and agencies involved to provide as many additional immunizations of children as possible. Such increased immunization activities should be taken in coordination with similar efforts of other organizations and in keeping with any national plans for expanded programs of immunization. The President shall include information concerning such immunization activities in the annual reports required by section 634 of the Foreign Assistance Act of 1961, including a report on the estimated number of immunizations provided each year pursuant to this subsection.

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[6] Sec. 4303 of Public Law 100-418 redesignated subsec. (k) as (l) and added a new subsec. (k).

SPECIAL ASSISTANT FOR AGRICULTURAL TRADE AND FOOD ASSISTANCE [7]

Sec. 1113.[8] (a) The President shall appoint a Special Assistant to the President for Agricultural Trade and Food Assistance [7] (hereinafter in this section referred to as the "Special Assistant"). The President shall appoint the initial Special Assistant not later than May 1, 1986.[9]

(b) The Special Assistant shall serve in the Executive Office of the President.

(c) The Special Assistant shall—

(1) assist and advise the President in order to improve and enhance food assistance programs carried out in the United States and foreign countries;

(2) be available to receive suggestions and complaints concerning the implementation of United States food aid and agricultural export programs anywhere in the United States Government and provide prompt responses thereto, including expediting the program implementation in any instances in which there is unreasonable delay;

(3) make recommendations to the President on means to coordinate and streamline the manner in which food assistance programs are carried out by the Department of Agriculture and the Agency for International Development, in order to improve their overall effectiveness;

(4) make recommendations to the President on measures to be taken to increase use of United States agricultural commodities and the products thereof through food assistance programs;

(5) advise the President on agricultural trade;

(6) advise the President on the Food for Progress Program and expedite its implementation;

(7) serve as a member of the Development Coordination Committee and the Food Aid Subcommittee of such Committee;

(8) advise departments and agencies of the Federal Government on their policy guidelines on basic issues of food assistance policy to the extent necessary to assure the coordination of food assistance programs, consistent with law, and with the advice of such Subcommittee; and

(9) submit a report to the President and Congress each year through 1990 containing—

(A) a global analysis of world food needs and production;

(B) an identification of at least 15 target countries which are most likely to emerge as growth markets for agricultural commodities in the next 5 to 10 years; and

(C) a detailed plan for using available export and food aid authorities to increase United States agricultural exports to those targeted countries.

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[7] The word "assistance" replaced the word "aid" as a result of Sec. 4(a) of Public Law 99-260 (100 Stat. 49).

[8] 7 U.S.C. 1736-1.

[9] The last sentence of Sec. 1113(a) was added by Sec. 4(d) of Public Law 99-260 (100 Stat. 49).

(d)[10] Compensation for the Special Assistant shall be fixed by the President at an annual rate of basic pay of not less than the rate applicable to positions in level III of the Executive Schedule.

Subtitle B—Maintenance and Development of Export Markets

TRADE POLICY DECLARATION

Sec. 1121.[11] (a) Congress finds that—

(1) the volume and value of United States agricultural exports have significantly declined in recent years as a result of unfair foreign competition and the high value of the dollar;

(2) this decline has been exacerbated by the lack of uniform and coherent objectives in United States agricultural trade policy and the absence of direction and coordination in trade policy formulation;

(3) agricultural interests have been under-represented in councils of government responsible for determining economic policy that has contributed to a strengthening of the United States dollar;

(4) foreign policy objectives of the United States have been introduced into the trade policy process in a manner injurious to the goal of maximizing United States economic interests through trade; and

(5) the achievement of that goal is in the best interests of the United States.

(b) It is hereby declared to be the agricultural trade policy of the United States to—

(1) provide through all means possible agricultural commodities and their products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) support the principle of free trade and the promotion of fairer trade in agricultural commodities and their products;

(3) cooperate fully in all efforts to negotiate with foreign countries reductions in current barriers to fair trade;

(4) counter aggressively unfair foreign trade practices using all available means, including export restitution, export bonus programs, and, if necessary, restrictions on United States im-

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[10] Subsec. (d) was amended by sec. 4(d) of Public Law 99-260 (100 Stat. 49), which substituted the provisions relating to the additional required functions of the Special Assistant for the provisions relating to compensation for the Special Assistant. Subsec. (d) previously read as follows:

"(d) The Special Assistant shall also—

"(1) solicit information and advice from private and governmental sources and recommend a plan to the President and Congress on measures that should be taken—

"(A) to promote the export of United States agricultural commodities and the products thereof; and

"(B) to expand export markets for United States agricultural commodities and the products thereof;

"(2) develop and recommend to the President national agricultural policies to foster and promote the United States agricultural industry and to maintain and increase strength of this vitally important sector of the United States economy; and

"(3)(A) appraise the various programs and activities of the Federal Government, as they affect the United States agricultural industry, for the purpose of determining the extent to which such programs and activities are contributing or not contributing to such industry; and

"(B) make recommendations to the President and Congress with respect to the effectiveness of such programs and activities in contributing to such industry."

[11] 7 U.S.C. 1736p.

ports of foreign agricultural commodities and their products, as a means to encourage fairer trade;

(5) remove foreign policy constraints to maximize United States economic interests through agricultural trade; and

(6) provide for the consideration of United States agricultural trade interests in the design of national fiscal and monetary policy that may foster continued strength in the value of the dollar.

TRADE LIBERALIZATION

Sec. 1122.[12] (a) Congress finds that—

(1) the present high level of agricultural protectionism contrasts sharply with the general trade liberalization that has been achieved since the inception of the General Agreements on Tariffs and Trade (hereinafter referred to as "GATT"); and

(2) GATT procedures should explicitly recognize the protective effect of domestic subsidies that alter trade indirectly by reducing the demand for imports and increasing the supply of exports.

(b) It is the sense of Congress that the President should negotiate with other parties to GATT to revise GATT rules and codes with the goal of reducing agricultural export subsidies, tariffs, and nontariff barriers to trade.

AGRICULTURAL TRADE CONSULTATIONS

Sec. 1123.[13] (a) To improve the orderly marketing of United States agricultural commodities, to achieve higher income for United States producers of agricultural commodities, and to reduce the likelihood of an agricultural commodity price war and the need for export subsidy programs, the Secretary of Agriculture shall, in coordination with the United States Trade Representative, confer with representatives of other major agricultural producing countries and, at the earliest possible date, initiate and pursue agricultural trade consultations among major agricultural producing countries.

(b) It is the sense of Congress that the objectives of the consultations called for in subsection (a) should be to—

(1) increase the exchange of information on worldwide agricultural production, demand, and commodity supply levels;

(2) determine a more equitable sharing of responsibility for maintaining agricultural commodity reserves and managing supplies of agricultural commodities; and

(3) attain increased cooperation in restraining export subsidy programs.

(c) The Secretary of Agriculture shall report to Congress by July 1, 1986, and annually thereafter through fiscal year 1990, on the progress of efforts to initiate and pursue the consultations called for in subsection (a), including any agreements reached with respect to the objectives set forth in subsection (b).

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[12] 7 U.S.C. 1736q.

[13] 7 U.S.C. 1736r.

TARGETED EXPORT ASSISTANCE

Sec. 1124.[14] (a)[15] For export activities authorized to be carried out by the Secretary of Agriculture or the Commodity Credit Corporation, in addition to any funds or commodities otherwise required under this Act to be used for such activities—

(1) for each of the fiscal years ending September 30, 1986, through September 30, 1987,[16] the Secretary shall use under this section not less $110,000,000 of funds of, or commodities owned by, the Corporation;[16]

(2)[16] for the fiscal year 1988, the Secretary shall use under this section not less than $215,000,000 of the funds of, or commodities owned by, the Corporation, except that the Secretary shall use funds or commodities of the Corporation in excess of $110,000,000 only to the extent appropriations to reimburse the Corporation for such additional expenditures of funds or distribution of commodities are made available in advance to carry out this section; and

(3)[16] for each of the fiscal years 1989 1990, the Secretary shall use under this section not less than $325,000,000 of the funds of, or commodities owned by, the Corporation.

(b)(1) Except as provided in paragraph (3),[17] funds or commodities made available for use under this section shall be used by the Secretary only to counter or offset the adverse effect on the export of a United States agricultural commodity or the product thereof of a subsidy (as defined in paragraph (2)), import quotas, or other unfair trade practices of a foreign country.

(2) As used in paragraph (1), the term subsidy includes an export subsidy, tax rebate on exports, financial assistance on preferential terms, financial assistance for operating losses, assumption of costs or expenses of production, processing, or distribution, a differential export tax or duty exemption, a domestic consumption quota, or other method of furnishing or ensuring the availability of raw materials at artificially low prices.

(3)[17] (A) Funds or commodities made available for use under this section may be used by the Secretary to assist organizations consisting of producers or processors of United States agricultural commodities in amounts necessary to compensate the organizations for reasonable expenses incurred in defending countervailing duty actions instituted after January 1, 1986, in foreign countries to offset the benefits of the agricultural programs provided for under the Agricultural Act of 1949 (7 U.S.C. 1421 *et seq.*). In no event may such assistance exceed $500,000 for the defense of any one countervailing duty action.

(B) If the Secretary declines to make funds or commodities available under this paragraph, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the reasons for declining to make the funds or commodities available.

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[14] 7 U.S.C. 1736s.

[15] Subsec. (a) was substantially revised and restated by sec. 5 of Public Law 99-260, 100 Stat. 49.

[16] Sec. 4304(a) of Public Law 100-418 struck out "1988" and inserted in lieu thereof "1987"; struck out "and" at the end of the clause; struck out paragraph (2) and inserted a new par. (2) and (3).

[17] Sec. 4304(b) of Public Law 100-418 added "Except as provided in paragraph (3)," and a new paragraph (3).

(c) The Secretary shall provide export assistance under this section on a priority basis in the case of—

(1) agricultural commodities and the products thereof with respect to which there has been a favorable decision under section 301 of the Trade Act of 1974 (19 U.S.C. 2411); or

(2) agricultural commodities and the products thereof for which exports have been adversely affected, as defined by the Secretary, by retaliatory actions related to a favorable decision under section 301 of the Trade Act (19 U.S.C. 2411).

SHORT-TERM EXPORT CREDIT

Sec. 1125.[18] (a) In making available any guarantees of the repayment of credit extended on terms of up to 3 years in connection with the export sale of United States agricultural commodities or the products thereof, the Commodity Credit Corporation shall take into account—

(1) the credit needs of countries that are potential purchasers of United States agricultural exports;

(2) the creditworthiness of such countries; and

(3) whether the availability of Commodity Credit Corporation guarantees will improve the competitive position of United States agricultural exports in world markets.

(b) Effective for the fiscal year ending September 30, 1986 and each fiscal year thereafter through the fiscal year ending September 30, 1990, the Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sale of United States agricultural commodities and the products thereof.

(c) Notwithstanding any other provision of law, the Secretary of Agriculture may not charge an origination fee with respect to any credit guarantee transaction under the Export Credit Guarantee Program (GSM-102) in excess of an amount equal to one percent of the credit extended under the transaction.

COOPERATOR MARKET DEVELOPMENT PROGRAM

Sec. 1126.[19] (a) It is the sense of Congress that the cooperator market development program of the Foreign Agricultural Service should be continued to help develop new markets and expand and maintain existing markets for United States agricultural commodities, using nonprofit agricultural trade organizations to the maximum extent practicable.

(b) The cooperator market development program shall be exempt from the requirements of Circular A 110 issued by the Office of Management and Budget.

(c) * * *

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[18] 7 U.S.C. 1736t.

[19] 7 U.S.C. 1736u.

DEVELOPMENT AND EXPANSION OF MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES

Sec. 1127.[20] (a)(1) Notwithstanding any other provisions of law, the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall formulate and carry out a program under which agricultural commodities and the products thereof acquired by the Commodity Credit Corporation are provided to United States exporters, users, and processors and foreign purchasers at no cost to encourage the development, maintenance, and expansion of export markets for United States agricultural commodities and the products thereof, including value-added or high-value agricultural products produced in the United States.

(2)(A) The term "agricultural commodities", as used in this section in referring to United States agricultural commodities, includes, but is not limited to—

(i) wheat, feed grains, upland cotton, rice, soybeans, and dairy products produced in the United States;

(ii) any other agricultural commodity produced in the United States that is determined by the Secretary of Agriculture to be in surplus supply and that can be purchased with funds available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935; and

(iii) products of the commodities and products described in clauses (i) and (ii) that are process in the United States.

(B) United States agricultural commodities, as described in clause (ii) of subparagraph (A), may not be purchased with funds available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, for the sole purpose of use under the program under this section; and such commodities, or products thereof, may not be furnished to a United States user, exporter, processor, or foreign purchaser under the program under this section except by mutual agreement of such user, exporter, processor, or purchaser and the Secretary.

(3) In carrying out paragraph (a), the Secretary may provide such commodities in order to make United States commodities more competitive and shall, to the extent necessary, provide such commodities and products—

(A) to counter or offset—

(i) the adverse effect on the export of a United States agricultural commodity or the product thereof of a subsidy (as defined in paragraph (4)) or other unfair trade practice of a foreign country that directly or indirectly benefits producers, processors, or exporters of agricultural commodities in such foreign country;

(ii) the adverse effects of United States agricultural price support levels that are temporarily above the export prices offered by overseas competitors in export markets; or

(iii) fluctuations in the exchange rate of the United States dollar against other major currencies; and

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[20] 7 U.S.C. 1736v.

(B) in conjunction with an intermediate export credit program conducted by the Commodity Credit Corporation—

(i) for the export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations; and

(ii) for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (through the use of local currency generated from the import and sale of United States agricultural commodities or the products thereof to finance all or part of such facilities).

(4) As used in paragraph (3)(A)(i), the term "subsidy" includes an export subsidy, tax rebate on exports, financial assistance on preferential terms, financial assistance for operating losses, assumption of costs or expenses of production, processing, or distribution, a differential export tax or duty exemption, a domestic consumption quota, or other method of furnishing or ensuring the availability of raw materials at artificially low prices.

(b) In carrying out the program established by this section, the Secretary of Agriculture—

(1) shall take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities and the products thereof in any case in which the importation of a manufactured product made, in whole or in part, from a commodity or the product thereof made available for export under this section would place domestic users of the commodity or the product thereof at a competitive disadvantage;

(2) [21] may consider for participation all interested United States exporters, processors, and users and interested foreign purchasers, and may give priority to sales to countries that have traditionally purchased United states agricultural commodities and products;

(3) shall encourage increased use and avoid displacing usual marketings of United States agricultural commodities and the products thereof;

(4) shall take reasonable precautions to prevent the resale or transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities or the products thereof the export of which is assisted under this section; and

(5) may provide to a United States exporter, user, processor, or foreign purchaser, under the program, agricultural commodities of a kind different than the agricultural commodity in-

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[21] Sec. 4306(a) of Public Law 100-418 rewrote paragraph (2). It formerly read as follows:
"(2) shall, to the extent that agricultural commodities and the products thereof are to be provided to foreign purchasers during any fiscal year, consider for participation all interested foreign purchasers, giving priority to those who have traditionally purchased United States agricultural commodities and the products thereof and who continue to purchase such commodities and the products thereof on an annual basis in quantities greater than the level of purchases in a previous representative period;"

volved in the transaction for which assistance under this section is being provided.

(c)(1) If a country does not meet the financial qualifications for export credit or credit guarantees provided by the Commodity Credit Corporation, the Secretary may provide to such country agricultural commodities and the products thereof acquired by the Corporation to the extent necessary to reduce the cost to such country of purchasing United States agricultural commodities and to allow such country to meet such qualifications.

(2) The Secretary shall review and adjust annually the quantity of commodities provided to a country under paragraph (1) in order to encourage such country to place greater reliance on increased use of commercial trade to meet the qualifications referred to in paragraph (1).

(d)(1) In carrying out this section, the Secretary may make green dollar export certificates available to commercial exporters of United States agricultural commodities and the products thereof.

(2) The Secretary shall make such certificates available under such terms and conditions as the Secretary determines appropriate.

(3) The amounts of such certificates to be made available to an exporter may be determined—

(A) on the basis of competitive bids submitted by exporters; or

(B) by announcement of the Secretary.

(4)(A) An exporter may redeem a green dollar export certificate for commodities owned by the Commodity Credit Corporation.

(B) For purposes of redeeming such certificates, the Secretary may establish values for such commodities that are different than the acquisition prices of such commodities.

(5) Such certificates—

(A) may be transferred among commercial exporters of United States agricultural commodities; and

(B) shall be redeemed within 6 months after the date of issuance.

(e) The Secretary of Agriculture shall carry out the program established by this section through the Commodity Credit Corporation.

(f) Any price restrictions that otherwise may be applicable to dispositions of agricultural commodities owned by the Commodity Credit Corporation shall not apply to agricultural commodities provided under this section.

(g) The program established under this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

(h) The authority provided under this section shall terminate on September 30, 1990.

(i) [22] During the period beginning October 1, 1985, and ending September 30, 1990,[23] the Secretary shall use agricultural commodities and the products thereof referred to in subsection (a) to carry out this section, except that the value of the commodities and products may not be less than $1,000,000,000, no more than $2,500,000,000.[23] To the maximum extent practicable, such commodities shall be used in equal amounts during each of the years in such period.

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[22] Subsec. (i) was substantially revised and amended by sec. 6 of Public Law 99-260, 100 Stat. 50.

[23] Sec. 4306(b) of Public Law 100-418 struck out "1988" and inserted in lieu thereof "1990"; struck out "$1,500,000,000" and inserted in lieu thereof "2,500,000,000".

POULTRY, BEEF AND PORK MEATS AND MEAT-FOOD PRODUCTS, EQUITABLE TREATMENT

Sec. 1128.[24] In the case of any program operated by the Secretary of Agriculture during the years 1986 through 1989, for the purpose of encouraging or enhancing commercial sales in foreign export markets of agricultural products or commodities produced in the United States, which program includes the payment of a bonus or incentive (in cash, commodities, or other benefits) provided to the purchaser, the Secretary shall seek to expend annually at least 15 per centum of the total funds available (or 15 per centum of the value of any commodities employed to encourage such sales) for program activities to likewise encourage and enhance the export sales of poultry, beef or pork meat and meat products.

PILOT BARTER PROGRAM FOR EXCHANGE OF AGRICULTURAL COMMODITIES FOR STRATEGIC MATERIALS

Sec. 1129. * * *[25]

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AGRICULTURAL ATTACHÉ REPORTS

Sec. 1132.[26] (a) The Secretary of Agriculture shall require appropriate officers and employees of the Department of Agriculture, including those stationed in foreign countries, to prepare and submit annually to the Secretary detailed reports that—

(1) document the nature and extent of—

(A) programs in such countries that provide direct or indirect government support for the export of agricultural commodities and the products thereof; and

(B) other trade practices that may impede the entry of United States agricultural commodities and the products thereof into such countries; and

(2) identify opportunities for the export of United States agricultural commodities and the products thereof to such countries.

(b) [27] The Secretary shall—

(1) annually compile the information contained in such reports;

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[24] 7 U.S.C. 1736w.

[25] Sec. 1129 amended sec. 416 of the Agricultural Act of 1949. For text, see page 991.

[26] 7 U.S.C. 1736x.

[27] Sec. 4307 of Public Law 100-418 revised subsec. (b). It formerly read as follows:

"(b) The Secretary shall annually compile the information contained in such reports and make such information available to Congress, the Agricultural Policy Advisory Committee and the agricultural technical advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), and other interested parties."

(2) in consultation with the agricultural technical advisory committees established under section 135(c) of the Trade Act of 1974 (19 U.S.C. 2155(c)),[28] include in the compilation a priority ranking of those trade barriers identified in subsection (a) by commodity group;

(3) include in the compilation a list of actions undertaken to reduce or eliminate such trade barriers; and

(4) made the compilation available to Congress, the trade assistance office created under section 4602 of the Agricultural Competitiveness and Trade Act of 1988,[29] the agricultural policy advisory committee, and other interested parties.

(c) The United States Trade Representative shall—

(1) review the reports prepared under subsection (a) and any other information available to identify export subsidies or other export enhancing techniques (within the meaning of the agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade);

(2) identify markets (in order of priority) in which United States export subsidies can be used most efficiently and will have the greatest impact in offsetting the benefits of foreign export subsidies that—

(A) harm United States exports,

(B) are inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade,

(C) nullify or impair benefits accruing to the United States under international agreements, or

(D) cause serious prejudice to the interests of the United States and

(3) submit to the Congress and to the Secretary of Agriculture an annual report on—

(A) the existence and status of export subsidies and other export enhancing techniques that are the subject of the investigation conducted under paragraph (1), and

(B) the identification and assignment of priority to markets under paragraph (2).

(d) The Secretary and the United States Trade Representative shall convene a meeting, at least once a year, of the Agricultural Policy Advisory Committee and the agricultural technical advisory committees to develop specific recommendations for actions to be taken by the Federal Government and private industry to—

(1) reduce or eliminate trade barriers or distortions identified in the annual reports required to be submitted under subsections (a) and (c); and

(2) expand United States agricultural export opportunities identified in such annual reports.

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[28] For text, see vol. III, sec. J.

[29] For text, see page 1048.

CONTRACT SANCTITY AND PRODUCER EMBARGO PROTECTION

Sec. 1133.[30] (a) It is hereby declared to be the policy of the United States—

(1) to foster and encourage the export of agricultural commodities and the products of such commodities;

(2) not to restrict or limit the export of such commodities and products except under the most compelling circumstances;

(3) that any prohibition or limitation on the export of such commodities or products should be imposed only in time of a national emergency declared by the President under the Export Administration Act; and

(4) that contracts for the export of such commodities or products entered into before the imposition of any prohibition or limitation on the export of such commodities or products should not be abrogated.

STUDY TO REDUCE FOREIGN EXCHANGE RISK

Sec. 1134. (a) The Secretary of Agriculture shall conduct a study to determine the feasibility, practicability and cost of implementing a program to reduce the risk of foreign exchange fluctuations that is incurred by the purchasers of United States agricultural exports under United States export credit promotion programs. The purpose of the study is to examine whether the GSM–102 program and all other United States export credit initiatives relating to agricultural exports would be enhanced by the United States assuming the foreign exchange risk of the buyer which resulted from a rise in the value of the United States dollar compared to the trade-weighted index of the dollar. The index referred to is the "trade-weighted index" published by the Department of Commerce as a measurement of the relative buying power of the dollar compared to the currencies of nations trading with the United States. The elements of the program to be considered in this study would include the following:

(1) On the date a foreign buyer receives GSM–102 or other credit for purposes of purchasing United States agricultural products, the maximum loan repayment exchange rate would be tied to the trade-weighted value of the United States dollar on the same date.

(2) If in the future the United States dollar gains in strength (a higher trade-weighted index), the buyer would continue to repay the loan at the lower value fixed at the time the GSM–102 credit was extended.

(3) If the United States dollar falls in value during the term of the repayment period the foreign buyer could calculate his repayment on the lower dollar value.

(b) Not later than six months after the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate.

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[30] 7 U.S.C. 1736y.

Subtitle C—Export Transportation of Agricultural Commodities

FINDINGS AND DECLARATIONS

Sec. 1141. (a) The Congress finds and declares—

(1) that a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and national security objectives of our Nation;

(2) that both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of foreign governments; and

(3) that increased agricultural exports and the utilization of United States merchant vessels contribute positively to the United States balance of trade and generate employment opportunities in the United States.

(b) It is therefore declared to be the purpose and policy of the Congress in this subtitle—

(1) to enable the Department of Agriculture to plan its export programs effectively, by clarifying the ocean transportation requirements applicable to such programs;

(2) to take immediate and positive steps to promote the growth of the cargo carrying capacity of the United States merchant marine;

(3) to expand international trade in United States agricultural commodities and products and to develop, maintain, and expand markets for United States agricultural exports;

(4) to improve the efficiency of administration of both the commodity purchasing and selling and the ocean transportation activities associated with export programs sponsored by the Department of Agriculture;

(5) to stimulate and promote both the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

(6) to provide in the Merchant Marine Act, 1936, for the appropriate disposition of these findings and purposes.

EXEMPTION OF CERTAIN AGRICULTURAL EXPORTS FROM THE REQUIREMENTS OF THE CARGO PREFERENCE LAWS

Sec. 1142. * * * [31]

EFFECT ON OTHER LAWS

Sec. 1143. This subtitle shall not be construed as modifying in any manner the provisions of section 4(b)(8) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)(8)) or chapter 5 of title 5, United States Code.

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[31] Sec. 1142 amended the Merchant Marine Act, 1936 (46 U.S.C. 1101 *et seq.*). For text, see page 602.

Subtitle E—Trade Practices

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ASSESSMENT OF EXPORT DISPLACEMENT

Sec. 1162.[32] (a) The Secretary of Agriculture shall assess each program, project, or activity administered by the Secretary or the Department of Agriculture that—

(1) provides assistance for establishing, expanding, or facilitating the production, marketing, or use of any agricultural commodity in a foreign country; and

(2) the Secretary determines is likely to have a detrimental impact on efforts to promote the export of United States agricultural commodities;

in order to determine if such program, project, or activity is likely to have such a detrimental impact.

(b) The Secretary shall provide the results of the assessment required under subsection (a)—

(1) in the case of current programs, projects, or activities, in a report made to the Congress not later than one year from the date of enactment of this section; and

(2) in the case of programs, projects, or activities undertaken after the date of enactment of this section, on a regular basis.

EXPORT SALES OF DAIRY PRODUCTS

Sec. 1163. (a) In each of the fiscal years 1986 through 1990,[33] the Secretary of Agriculture shall sell for export, at such prices as the Secretary determines appropriate, not less than 150,000 metric tons of dairy products owned by the Commodity Credit Corporation, of which not less than 100,000 metric tons shall be butter and not less than 20,000 metric tons shall be cheese, if that disposition of such commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and normal patterns of commercial trade.

(b) Such sales shall be made through the Commodity Credit Corporation under existing authority available to the Secretary or the Commodity Credit Corporation.

(c) Through September 30, 1990,[34] the Secretary shall report semi-annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the volume of sales made under this section.

UNFAIR TRADE PRACTICES

Sec. 1164. The Congress finds that—

(1) United States producers and processors of citrus, wheat flour, poultry, canned fruits, and raisins have filed petitions under section 302 of the Trade Act of 1974 alleging that the

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[32] 7 U.S.C. 1736z.

[33] Sec. 107(1) of Public Law 100–435 (102 Stat. 1651) struck out "fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988" and inserted in lieu thereof "fiscal year 1986 through 1990".

[34] Sec. 107(2) of Public Law 100–435 (102 Stat. 1651) struck out "1988" and inserted "1990".

subsidies and discriminatory tariffs of the European Communities are inconsistent with the principles and terms of the General Agreement on Tariffs and Trade (hereafter referred to in this section as the "GATT") and have placed United States exporters at a competitive disadvantage;

(2) throughout the past decade, the European Communities has repeatedly rebuffed extensive United States efforts to resolve these matters through bilateral consultations and multilateral negotiations, as well as through consultations under the provisions of the GATT;

(3) after many years of frustrated discussions, the United States had no choice but to invoke the dispute settlement procedures of the GATT as the only remaining means of seeking redress for American producers and processors;

(4) investigatory panels, established by the GATT to review United States complaints with respect to citrus, canned fruits, and raisins, concluded that European Communities subsidies and discriminatory tariffs had nullified and impaired rights of United States exporters and were in violation of the GATT and recommended that the European Communities take necessary steps to rectify the matters;

(5) the European Communities has effectively and repeatedly prevented adoption by the GATT of each of these reports, most recently, the favorable report involving the 15-year-old citrus complaint;

(6) on May 1, 1985, the President concluded that the GATT dispute settlement process with respect to the citrus complaint was terminated and, pursuant to section 301 of the Trade Act of 1974, the President had to consider a subsequent course of action to redress the injury to United States citrus exporters;

(7) on June 20, 1985, the President announced that a reasonable and appropriate course of action in response to the unwillingness of the European Communities to implement the unanimous finding of the GATT panel or to negotiate a mutually acceptable resolution of the citrus complaint is to withdraw an equivalent amount of concessions from imported European Communities pasta products and, in response, the European Communities notified the United States that the European Communities would retaliate by increasing the European Communities duties on United States lemon and walnut imports;

(8) on July 19, 1985, the United States and the European Communities agreed to suspend until October 31, 1985, the tariff increases, in order to provide the European Communities with additional time to resolve the citrus complaint; and

(9) despite this suspension, the European Communities has failed to present to the United States an acceptable proposal to resolve the citrus complaint, and effective November 1, 1985, the United States reinstated the pasta tariff increase, and in turn, the European Communities reinstated the lemon and walnut tariff increase.

(b) The President shall take all appropriate and feasible action within the power of the Presidency (including, but not limited to, the actions described in section 301 of the Trade Act of 1974 (19 U.S.C. 2411)) to—

(1) ensure a prompt and satisfactory resolution of all complaints regarding subsidies and discriminatory tariffs of the European Communities which—

(A) are set forth in petitions filed under section 302 of the Trade Act of 1974 by United States exporters of citrus, wheat flour, poultry, canned fruits, and raisins, and

(B) are pending before the GATT on the date of enactment of this Act; and

(2) balance the level of concessions in the trade between the United States and the European Communities.

THAI RICE

Sec. 1165. (a) Congress finds that—

(1) Rice ranks 9th among major domestic field crops in value of production;

(2) Rice accounts for about 5 percent of the value of major field crops produced in the United States;

(3) The value of domestic rice production annually is over $1,500,000,000;

(4) Ending stocks for rice have sharply increased since 1980;

(5) The projected 1985–1986 carryover of rice as a percentage of annual use is 62 percent;

(6) Between 1980 and 1983, rice stocks rose and prices fell, pushing rice program costs from less than one-tenth to over nine-tenths of the value of United States rice production;

(7) Over the last several years, percentage of world rice exports from the United States has fallen from a high of 25 percent to 18 percent in 1985;

(8) In the last several years, Thailand has become the largest rice exporter in the world, accounting for 30 percent of the world market;

(9) Thai rice imports into the United States have displaced normal sales of United States rice and have increased Government costs;

(10) In 1983, the United States imported 33.2 million pounds of rice from Thailand, in 1984 the United States imported 51.3 million pounds of rice (an increase of 53 percent), and in the first six months of 1985, rice imports from Thailand to the United States have already reached 58.3 million pounds; and

(11) A petition has been filed with the Department of Commerce asking that countervailing duties be imposed upon imports of Thai rice into the United States.

(b) Based upon these findings, it is the sense of Congress that—

(1) our domestic rice industry is of vital importance and must be protected from unfair foreign competition; and

(2) the Secretary of Commerce should give immediate consideration to the countervailing duty petition referred to in subsection (a)(11).

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BARTER OF AGRICULTURAL COMMODITIES FOR STRATEGIC AND CRITICAL MATERIALS

Sec. 1167. (a) Congress finds that—

(1) the Commodity Credit Corporation, the General Services Administration, and the Department of Agriculture have authority to barter or exchange agricultural commodities for strategic and critical materials for the national defense stockpile;

(2) from 1950 to 1973, the Department of Agriculture conducted a highly successful barter program using agricultural commodities to acquire strategic and critical materials;

(3) private commercial firms in the United States have entered into effective barter agreements with foreign governments or private parties in foreign countries to barter or exchange commodities and services to supplement customary commercial transactions in international markets;

(4) barter can be an effective secondary method of reducing excess supplies of agricultural commodities and adding needed strategic and critical materials to the national defense stockpile;

(5) barter can be used to help overcome certain currency exchange and balance-of-trade problems and to develop new markets for United States agricultural products;

(6) barter can be used to promote United States foreign policy interests; and

(7) several nations are potential partners in a revival of a coherent and well-managed government barter program.

(b) Section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended—

(1) * * *

(B) * * *

(2) * * *

(3) * * *

(4) * * *

(5) by inserting after the eighth sentence (as amended by clause (3)) the following new sentence: "If the volume of petroleum products (including crude oil) stored in the Strategic Petroleum Reserve is less than the level prescribed under section 154 of the Energy Policy and Conservation Act (42 U.S.C. 6234), the Corporation shall, to the maximum extent practicable and with the approval of the Secretary of Agriculture, make available annually to the Secretary of Energy, upon the request of the Secretary of Energy, a quantity of agricultural products owned by the Corporation with a market value at the time of such request of at least $300,000,000 for use by the Secretary of Energy in acquiring petroleum products (including crude oil) produced abroad for placement in the Strategic Petroleum Reserve through an exchange of such agricultural products. The terms and conditions of each such exchange, including provisions for full reimbursement to the Commodity Credit Corporation, shall be determined by the Secretary of Energy and the Secretary of Agriculture.".

(c) * * *

(d)(1) The Secretary of Agriculture shall encourage United States exporters of agricultural commodities and the products thereof to barter such commodities and products for foreign products needed by such exporters.

(2) The Secretary shall provide technical advice and assistance relating to the barter of agricultural commodities and the products thereof to any United States exporter who requests such advice or assistance.

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TITLE XIV—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

Subtitle A—General Provisions

Sec. 1401. * * * [35]

Sec. 1402. Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101) [36] is amended by—

(1) * * *

(2) in paragraph (10)

(A) * * *

(B) redesignating subparagraphs (B), (C), (D), (E), (F), and (G) as subparagraphs (C), (D), (F), (G), (H), and (I), respectively;

(C) * * *

(D) * * *

(E) * * *

(F) * * *

(G) striking out subparagraph (I) (as redesignated by subparagraph (B)) and inserting in lieu thereof the following new subparagraph:

"(I) INTERNATIONAL FOOD AND AGRICULTURE.—United States agricultural production has proven its ability to produce abundant quantities of food for an expanding world population. Despite rising expectation for improved diets in the world today, there are instances of drought, civil unrest, economic crisis, or other conditions that preclude the local production or distribution of food. There are instances where localized problems impede the ability of farmers to produce needed food products. It is also recognized that many nations have progressive and effective agricultural research programs that produce results of interest and applicability to United States agriculture. The exchange of knowledge and information between nations is essential to the well-being of all nations. A dedicated effort involving the Federal Government, the State cooperative institutions, and other colleges and universities is needed to expand international food and agricultural research, extension, and teaching programs. Improved cooperation and communication by the Department of Agriculture and the cooperators with international agricultural research centers, counterpart agencies, and universities in other nations are necessary to improve food and agricultural progress throughout the world.";

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[35] 7 U.S.C. 3101 note.

[36] Sec. 1402 concerned congressional findings.

(3) * * *

(4) * * *

DEFINITIONS

Sec. 1403. Section 1404(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8)) [37] is amended by—

(1) * * *

(2) * * *

(3) adding at the end thereof the following new subparagraph:

"(J) international food and agricultural issues, such as agricultural development, development of institutions, germ plasm collection and preservation, information exchange and storage, and scientific exchanges;".

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INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION

Sec. 1418. * * * [38]

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[37] Sec. 1404(8) defined the term "food and agricultural sciences" as including but not limited to, activities relating to those listed in subpar. (J).

[38] Sec. 1418 amended sec. 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)). 7 U.S.C. 3291(a) read as follows:

"SUBCHAPTER VIII—INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION

"§ 3291. Authorized activities

"(a) Activities coordinated with other Federal officials, departments, and agencies

"The Secretary, subject to such coordination with other Federal officials, departments, and agencies as the President may direct, is authorized to—

"(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural and related research and extension activities by exchanging research materials and results with such institutions or persons and by conducting with such institutions or persons joint or coordinated research and extension on problems of significance to food and agriculture in the United States;

"(2) assist the Agency for International Development with food, agricultural, research and extension programs in developing countries;

"(3) work with developed and transitional countries on food, agricultural and related research and extension, including providing technical assistance, training, and advice to persons from such countries engaged in such activities and the stationing of scientists at national and international institutions in such countries;

"(4) assist United States colleges and universities in strengthening their capabilities for food, agricultural, and related research and extension relevant to agricultural development activities in other countries through the development of highly qualified scientists with specialization in international development; and

"(5) further develop within the Department of Agriculture highly qualified and experienced scientists who specialize in international programs, to be available for the activities described in this section.

"§ 3291. Authorized activities

"(a) Activities coordinated with other Federal officials, departments, and agencies

"The Secretary, subject to such coordination with other Federal officials, departments, and agencies as the President may direct, is authorized to—

"(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural and related research

Continued

AGRICULTURAL INFORMATION EXCHANGE WITH IRELAND

Sec. 1420. (a) The Secretary of Agriculture shall undertake discussions with representatives of the Government of Ireland that may lead to an agreement that will provide for the development of a program between the United States and Ireland whereby there will be—

(1) a greater exchange of—

(A) agricultural scientific and educational information, techniques, and data;

(B) agricultural marketing information, techniques, and data; and

(C) agricultural producer, student, teacher, agribusiness (private and cooperative) personnel; and

(2) the fostering of joint investment ventures, cooperative research, and the expansion of United States trade with Ireland.

(b) The Secretary shall periodically report to the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate to keep such Committees apprised of the progress and accomplishments, and such other information as the Secretary considers appropriate, with regard to the development of such program.

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and extension activities by exchanging research materials and results with such institutions or persons and by conducting with such institutions or persons joint or coordinated research and extension on problems of significance to food and agriculture in the United States;

"(2) assist the Agency for International Development with food, agricultural, research and extension programs in developing countries;

"(3) work with developed and transitional countries on food, agricultural and related research and extension, including the training of persons from such countries engaged in such activities and the stationing of scientists at national and international institutions in such countries;

"(4) assist United States colleges and universities in strengthening their capabilities for food, agricultural, and related research and extension relevant to agricultural development activities in other countries; and

"(5) further develop within the Department of Agriculture highly qualified and experienced scientists who specialize in international programs, to be available for the activities described in this section."

h. Agricultural Aid and Trade Missions Act

Partial text of Public Law 100–202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; amended by Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107, approved August 23, 1988

JOINT RESOLUTION **Making further continuing appropriations for the fiscal year 1988, and for other purposes.**

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

* * * * * * *

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

Sec. 101. (a) * * *

* * * * * * *

AGRICULTURAL AID AND TRADE MISSIONS ACT [1]

SEC. 1. AGRICULTURAL AID AND TRADE MISSIONS.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, under the chairmanship of the Secretary of Agriculture, the Secretary of Agriculture, the Secretary of State, and the Administrator shall jointly establish agricultural aid and trade missions to eligible countries to encourage the countries to participate in those United States agricultural aid and trade programs for which they are eligible in accordance with section 2.

(b) COMPOSITION.—A mission to an eligible country shall be composed of—

(1) representatives of the Department of Agriculture, the Department of State, and the Agency for International Development, appointed by the Secretary of Agriculture, Secretary of State, and Administrator, respectively; and

(2) not less then 3, nor more than 6, representatives of market development cooperators, tax-exempt nonprofit agri-

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[1] Sec. 7 of the Agricultural Act of 1949, Amendment (Public Law 100–277, 102 Stat. 69) provided the following:

"SEC. 7. INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT TO AGRICULTURAL AID AND TRADE MISSIONS.

"Any agricultural aid and trade mission established under section 1 of the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes' approved December 22, 1987, under the heading 'Agricultural Aid and Trade Missions Act', and any other activity under this section and sections 2 through 7 of such portion, shall not be considered an advisory committee for the purposes of the Federal Advisory Committee Act."

business organizations, private voluntary organizations, and cooperatives, appointed jointly by the Secretary of Agriculture, Secretary of State, and Administrator,

who are knowledgeable about food aid and agricultural export programs, as well as the food needs, trade potential, and economy of the eligible country.

(c) TERMS.—The term of members of a mission shall terminate on submission of the report required under section 4.

(d) COMPENSATION AND TRAVEL EXPENSES.—A member of a mission shall serve without compensation, if not otherwise an officer or employee of the United States, except that a member, while away from home or regular place of business in the performance of services under this Act,[2] shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.

SEC. 2. REQUIRED AND ADDITIONAL MISSIONS; ELIGIBLE COUNTRIES.

(a) REQUIRED MISSIONS.—Missions shall be established and completed—

(1) not later than 6 months after the date of enactment of this Act, in 8 countries chosen in accordance with the criteria set forth in subsection (c); and

(2) not later than 1 year after the date of enactment of this Act, in 8 additional countries chosen in accordance with such criteria.

(b) ADDITIONAL MISSIONS.—After the completion of the missions referred to in subsection (a), a mission may be established to any foreign country chosen in accordance with the criteria set forth in subsection (c).

(c) CRITERIA.—

(1) INDIVIDUAL COUNTRIES.—Subject to paragraph (2) and subsection (a), a mission shall be established to a foreign country if—

(A) the country is eligible for participation in United States agricultural aid and trade programs and such participation would be mutually advantageous to the country and the United States; and

(B) the country is friendly to the United States.

(2) MULTIPLE COUNTRIES.—In selecting countries for missions under this section, the Secretary shall—

(A) select countries that are in various stages of development and have various income levels; and

(B) consider—

(i) past participation in United States food programs;

(ii) experience with United States agricultural aid and trade programs; and

(iii) import market potential.

(d) ELIGIBILITY OF POLAND.—Notwithstanding any other provision of this section, the Secretary of Agriculture may establish a mission in Poland.

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[2] Sec. 4610(b) of Public Law 100-418 struck out "chapter" in secs. 1-7, and inserted in lieu thereof "Act".

SEC. 3. FUNCTIONS.

The members of a mission to an eligible country shall—

(1) meet with representatives of Government agencies of the United States and the eligible country, as well as commodity boards, private enterprises, international organizations, private voluntary organizations, and cooperatives that operate in the eligible country, to assist in planning the extent to which United States agricultural aid and trade programs could be used in a mutually beneficial manner to meet the food and economic needs of the country;

(2) provide technical expertise and information to representatives of Government agencies of the United States and the eligible country and private organizations with respect to United States agricultural aid and trade programs and agricultural commodities and other assistance available to the eligible country under such programs; and

(3) assist in obtaining firm commitments for—

(A) proposals for food aid programs; and

(B) agreements for commodity sales.

SEC. 4. MISSION REPORTS.

Not later than 60 days after the completion of a mission under section 2, the mission shall submit a report that contains the findings and recommendations of the mission in carrying out its responsibilities under this Act [2] to the President, the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate, the Secretary of Agriculture, the Secretary of State, and the Administrator.

SEC. 5. PROGRESS REPORTS.

During the 2-year period beginning 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Administrator shall jointly submit a quarterly report on progress made in implementing the recommendations of the missions reported under section 4, including the quantity and dollar value of commodities shipped to eligible countries and the specific development programs undertaken in accordance with this Act,[2] to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act: [2] *Provided,* That $200,000 is appropriated to carry out this Act [2] for fiscal year 1988.

SEC. 7. DEFINITIONS.

As used in this Act: [2]

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency for International Development.

(2) ELIGIBLE COUNTRY.—The term "eligible country" means a country that is eligible under section 2(c).

(3) MISSION.—The term "mission" means an agricultural aid and trade mission established under section 1.

(4) UNITED STATES AGRICULTURAL AID AND TRADE PROGRAMS.—The term "United States agricultural aid and trade programs" includes—

(A) programs established under titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.);

(B) the program established under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) the agricultural export enhancement program established under section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v);

(D) the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(E) the export credit guarantee program (GSM-102) established under section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f));

(F) the intermediate export credit guarantee program (GSM-103) established under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b));

(G) the food for progress program established under section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o); and

(H) other agricultural aid and trade programs authorized by the Food Security Act of 1985 (Public Law 99-198), by the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or by other applicable authorities.

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SEC. 16.[3] SHORT TITLE

Section 1 through this section under the heading "Agricultural Aid and Trade Missions Act" may be cited as the "Agricultural Aid and Trade Missions Act".

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[3] Sec. 4610(a) of Public Law 100-418 added sec. 16.

i. World Food Day—Proclamation

World Food Day

Public Law 100–451 [S.J.Res. 336], 102 Stat. 1900, approved September 28, 1988

JOINT RESOLUTION Designating October 16, 1988, as "World Food Day".

Whereas hunger and malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment because of vitamin or protein deficiencies;

Whereas the United States and the people of the United States have a long tradition of demonstrating humanitarian concern for the hungry and malnourished people of the world, recently manifested by the American response to African famine;

Whereas efforts to resolve the world hunger problem are critical to the maintenance of world peace and, therefore, to the security of the United States;

Whereas the Congress is particularly concerned with the continuing food problems of Africa and is supportive of the efforts being made there to reform and rationalize agricultural policies to better meet the foods needs of their peoples;

Whereas the United States, as the largest producer and trader of food in the world, has a key role to play in assisting countries and people to improve their ability to feed themselves;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas the Congress is acutely aware of the paradox of enormous surplus production capacity in the United States despite the desperate need for food by people throughout the world;

Whereas the United States and other countries should develop and continually evaluate national policies concerning food, farmland, and nutrition to achieve the well-being and protection of all people and particularly those most vulnerable to malnutrition and related diseases;

Whereas improved agricultural policies, including farmer incentives, are necessary in many developing countries to increase food production and economic growth;

Whereas private enterprise and the primacy of the independent family farmer have been basic to the development of an agricultural economy in the United States and have made the United

States capable of meeting the food needs of most of the people of the United States;

Whereas increasing farm foreclosures threaten to destroy the independent family farmer and weaken the agricultural economy in the United States;

Whereas conservation of natural resources is necessary for the United States to remain the largest producer of food in the world and to continue to aid hungry and malnourished people of the world;

Whereas participation by private voluntary organizations and businesses, working with national governments and the international community, is essential in the search for ways to increase food production in developing countries and improve food distribution to hungry and malnourished people;

Whereas the member nations of the Food and Agriculture Organization of the United Nation unanimously designated October 16 of each year as World Food Day because of the need to increase public awareness of world hunger problems;

Whereas past observances of World Food Day have been supported by proclamations by the Congress, the President, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, and by programs of the Department of Agriculture, other Federal departments and agencies, and the governments and peoples of more than 140 other nations;

Whereas more than 400 private voluntary organizations and thousands of community leaders are participating in the planning of World Food Day observances in 1988, and a growing number of these organizations and leaders are using such day as a focal point for year-round programs; and

Whereas the people of the United States can express their concern for the plight of hungry and malnourished people throughout the world by fasting and by donating food and money for them: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1988, is designated as "World Food Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities, including worship services, fasting, educational endeavors, and the establishment of year-round food and health programs and policies.

j. Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989

Partial text of Public Law 100-460 [H.R. 4784], 102 Stat. 2229, approved October 1, 1988

AN ACT Making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes, namely:

* * * * * * *

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $95,017,000: *Provided,* That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

AGRICULTURAL TRADE MISSIONS

For necessary expenses for agricultural aid and trade missions as authorized by Public Law 100-202,[1] $400,000.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $851,900,000, of which $468,100,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $630,000,000, of which $630,000,000 is hereby appropriated: *Provided,* That not to exceed 10 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

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[1] For text, see page 1028.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,319,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581–3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b) (1), (3)), $1,000,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

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TITLE VI—GENERAL PROVISIONS

* * * * * * *

SEC. 620. During fiscal year 1989, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default. [2]

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SEC. 640. Within 30 days of the enactment of this section the Secretary of Agriculture may establish and operate a program for fiscal year 1989 as follows:

(a) The Secretary shall make available to sugar refiners, operators and processor commodities acquired by the Commodity Credit Corporation at such levels as the Secretary determines necessary to permit such refiners, operators or processors to purchase in the amounts specified below raw sugar grown in the Republic of the Philippines and countries designated as beneficiary countries pursuant to section 212 of the Caribbean Basin Economic Recovery Act

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[2] By Executive Order 12453 of December 23, 1983, 48 F.R. 57101, the President delegated the functions vested in him by the similarly worded sec. 620 of the Agriculture, Rural Development and Related Agencies Appropriations Act, 1984 (Public Law 98-151) to the Secretary of State. The President also delegated any other function vested in him by any other legislation requiring the submission of periodic reports to Congress as a condition for the payment of U.S. funds in satisfaction of guarantees or assurances given by the U.S. with respect to loans made and credits extended to Poland, to the Secretary of State. Furthermore, the President directed the Secretary of State to confer with the Secretary of Agriculture and the heads of other interested Executive departments and agencies prior to making any determinations or providing reports referred to above.

(19 U.S.C. 2702) at prices equivalent to the market price for raw cane sugar in the United States on the condition that an equivalent amount of sugar refined in the United States is exported to world markets within 60 days. The Secretary shall make such commodities available on the basis of competitive bids and shall have discretion to accept or reject bids under such criteria as the Secretary determines appropriate. Generic certificates shall be issued in lieu of commodities acquired by the Commodity Credit Corporation under the program established under this section.

(b) The Secretary shall make available sufficient commodities to permit the importation of no less than 290,000 short tons of sugar, raw value, from the beneficiary countries specified in subsection (a), and no less than 110,000 short tons of sugar, raw value, from the Republic of the Philippines. Sugar imported under the program authorized under this section shall be in addition to any sugar quota level established for the countries specified in subsection (a) pursuant to headnote 3 of schedule 1, part 10, subpart A of the Tariff Schedules of the United States (9 U.S.C. 1202).

* * * * * * *

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989".

k. Executive Order 12220, June 27, 1980, 45 F.R. 44245 [1]

AGRICULTURAL TRADE DEVELOPMENT

By the authority vested in me as President of the United States of America by the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, *et seq.*) and Section 301 of Title 3 of the United States Code, and in order to provide for the delegation of certain functions to the United States International Development Cooperation Agency and to revise existing delegations, it is hereby ordered as follows:

1-1. Department of Agriculture.

1-101. Except as otherwise provided in this Order, the following functions vested in the President by the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter referred to as the Act), are delegated to the Secretary of Agriculture: Titles I and IV (7 U.S.C. 1701, *et seq.*, and 1731, *et seq.*).

1-102. The Secretary of Agriculture shall transmit the reports required by the provisions of paragraph 5 of the Act of August 13, 1957 (71 Stat. 345; 7 U.S.C. 1704a).

1-103. The Secretary of Agriculture, after consultation with the Secretary of State, the Secretary of the Treasury, the Director of the United States International Development Cooperation Agency, the Chairman of the Council of Economic Advisers, the Director of the Office of Management and Budget, and the Assistant to the President for National Security Affairs, shall transmit to the Congress all reports required by Section 408 of the Act (7 U.S.C. 1736b).

1-2. United States International Development Cooperation Agency.

1-201. Administration of Title II. The functions vested in the President by Title II of the Act (7 U.S.C. 1721, *et seq.*) are delegated to the Director of the United States International Development Cooperation Agency.

1-202. Other functions:

(a) The functions vested in the President by the Act of negotiating and entering into agreements with friendly countries are delegated to the Director of the United States International Development Cooperation Agency. Such functions shall be exercised in accord with Section 112b of Title I of the United States Code and applicable regulations and procedures of the Department of State.

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[1] This Executive Order replaced Executive Order 10900 which had governed Public Law 83-480 from January 5, 1961, until June 27, 1980.

(b) The functions delegated to the Director of the United States International Development Cooperation Agency by subsection (a) of this section are exclusive of any functions under Section 104 of the Act (7 U.S.C. 1704) that are delegated to any other agency by this Order and of functions under Section 310 of the Act (7 U.S.C. 1692).

(c) The functions delegated by this Order to the Director of the United States International Development Cooperation Agency may be redelegated to the head of any other Executive agency.

1-3. Department of State.

1-301. The Secretary of State shall perform the function of determining which countries are friendly countries within the meaning of Section 103(d) of the Act (7 U.S.C. 1703(d)).

1-302. The functions delegated by this Order to the Secretary of State may be redelegated to the head of any Executive agency.

1-4. Foreign Currencies.

1-401. (a) Foreign currencies which accrue under Title I of the Act (7 U.S.C. 1701, *et seq.*) may be used for the purposes set forth in Section 104 of the Act (7 U.S.C. 1704) in amounts consistent with applicable provisions of law, sales agreements and loan assessments. Except as may be inconsistent with such law or agreements, priority shall be accorded to the sale of such currencies to appropriations or to their sale otherwise for dollars. The Director of the Office of Management and Budget shall fix the amounts of such currencies to be used for the purpose set forth in Section 104 of the Act. The Director of the Office of Management and Budget shall notify the Secretary of the Treasury with respect to any amounts so fixed.

(b) The function vested in the President by the penultimate proviso of Section 104 of the Act (7 U.S.C. 1704) of waiving the applicability of Section 1415 of the Supplemental Appropriation Act of 1953 (31 U.S.C. 724) is delegated to the Director of the United States International Development Cooperation Agency with respect to Section 104(e) of the Act and to the Director of the Office of Management and Budget in all other respects.

1-402. The Secretary of the Treasury shall issue regulations governing the purchase, custody, deposit, transfer and sale of foreign currencies received under the Act.

1-403. The provisions of Sections 1-401 and 1-402 of this Order shall not limit Sections 1-202 and 1-3 of this Order. The provisions of Section 1-402 of this Order shall not limit Section 1-401 of this Order.

1-404. The purposes of the following paragraphs of Section 104 of the Act (7 U.S.C. 1704) shall be carried out as follows:

(a) Those under paragraph (a) by the agencies with authority to pay the United States' obligations abroad.

(b) Those under paragraph (b)(1) by the Department of Agriculture.

(c) Those under paragraph (b)(2) by the agencies with responsibility for such functions.

(d) Those under paragraph (b)(3) of the Act as follows:

(1) Those with respect to collecting, collating, translating, abstracting, and disseminating scientific and technological information by the Director of the National Science Foundation and the head of such other agency or agencies as the Director of the Office of Management and Budget may designate after appropriate consultation;

(2) Those with respect to programs of culture and educational development, health, nutrition, and sanitation by the Director of the International Communication Agency, the Department of State, and the head of any other appropriate agency;

(3) All others by such agency or agencies as the Director of the Office of Management and Budget may designate after appropriate consultation.

(4) The term "appropriate consultation" shall include consultation with the Secretary of State, the Director of the National Science Foundation, and the head of any other appropriate agency.

(e) Those under paragraph (b)(4) by the Department of State and any other agency or agencies designated by the Secretary of State.

(f) Those under paragraph (b)(5) by the Librarian of Congress.

(g) Those under paragraphs (d), (e), (f), (g), and (h) by the United States International Development Cooperation Agency.

(h) Those under paragraph (j) by the Department of the Treasury in consultation with the Department of State.

1-405. The functions vested in the President by Section 104 of the Act (7 U.S.C. 1704) are delegated as follows:

(a) Those under paragraph (f) of determining the manner in which the loans provided for in that paragraph shall be made to the Director of the United States International Development Cooperation Agency.

(b) Those under paragraph (j) of prescribing terms and conditions to the Secretary of the Treasury in consultation with the Secretary of State.

1-406. In negotiating international agreements pursuant to the Act, the Secretary of State shall avoid restrictions which would limit the application of normal budgetary and appropriation controls to the use of foreign currencies accruing under Title I of the Act (7 U.S.C. 1701, *et seq.*) which are available for operations of the United States Government.

1-5. Revocations.

1-501. Executive Order No. 10900 of January 5, 1961, as amended, is revoked.

1-502. The following Executive Orders which have previously been superseded, at least in part, are revoked:

(a) Executive Order No. 10560 of September 9, 1954;
(b) Executive Order No. 10685 of October 27, 1956;
(c) Executive Order No. 10708 of May 6, 1957;
(d) Executive Order No. 10746 of December 12, 1957;
(e) Executive Order No. 10799 of January 15, 1959;
(f) Executive Order No. 10827 of June 25, 1959;
(g) Executive Order No. 10884 of August 17, 1960; and
(h) Executive Order No. 10893, as amended, except Section 201 thereof.

1. Food for Progress

Executive Order 12583 of February 19, 1987, 52 F.R. 5427

By the authority vested in me as President by the laws of the United States of America, including the Food for Progress Act of 1985 (section 1110 of the Food Security Act of 1985, Public Law 99-198; 7 U.S.C. 1736o) ("the Act") and section 301 of Title 3 of the United States Code, and in order to provide for the delegation of certain functions under the Act, it is hereby ordered as follows:

Section 1. (a) The function vested in the President by section 1110(b) of the Act of entering into agreements with developing countries is delegated to the Director of the United States International Development Cooperation Agency, and this function may be redelegated to the head of any other agency. This function shall be exercised in accordance with section 112b of Title I of the United States Code and applicable regulations and procedures of the Department of State.

(b) The Director of the United States International Development Cooperation Agency shall, in accordance with Section 3 of this Order, transmit to the Congress all reports required by the Act concerning such agreements.

Section 2. The functions vested in the President by section 1110(f)(2) of the Act of waiving any minimum tonnage requirements are delegated to the Secretary of Agriculture, who shall exercise this function in accordance with policy guidance provided by the Food Aid Subcommittee of the Development Coordination Committee.

Section 3. In order to ensure that the furnishing of commodities under the Act is coordinated with and complements other United States foreign assistance, the exercise of all functions delegated by this Order shall be coordinated through the Food Aid Subcommittee of the Development Coordination Committee.

Ronald Reagan

THE WHITE HOUSE
February 19, 1987

2. Food for Peace Act of 1966

Partial text of Public Law 89-808 [H.R. 14929], 80 Stat. 1526, approved November 11, 1966, as amended by Public Law 95-501 [S. 3447], 92 Stat. 1685, approved October 1, 1978; Public Law 97-98 [S. 884], 95 Stat. 1213 at 1274, approved December 22, 1981; Public Law 99-198 [H.R. 2100]; 99 Stat. at 1354, approved December 23, 1985; and by Public Law 100-418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat. 1107, approved August 23, 1988

AN ACT To promote international trade in agricultural commodities, to combat hunger and malnutrition, to further economic development, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food for Peace Act of 1966".

* * * * * * *

Sec. 2. Amended the Agricultural Trade Development and Assistance Act of 1954, as amended, commonly called Public Law 480.

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Sec. 3. (a) Section 9 of the Act of September 6, 1958 (7 U.S.C. 1431b), is amended, effective January 1, 1967, by deleting the symbol "(1)", by changing the semicolon to a period and by striking out all of the language in the section after the semicolon.

(b) Section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) is amended, effective January 1, 1967, by striking out "foreign distribution,".

(c) Section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), is amended, effective January 1, 1967, by striking out the following: "and (4) to donate any such food commodities in excess of anticipated disposition under (1), (2), and (3) above to nonprofit voluntary agencies registered with the Committee on Voluntary Foreign Aid of the Foreign Operations Administration or other appropriate department or agency of the Federal Government and intergovernmental organizations for use in the assistance of needy persons and in nonprofit school lunch programs outside the United States"; "and (4) above"; ", in the case of commodities made available for use within the United States, or their delivery free alongside ship or free on board export carrier at point of export, in the case of commodities made available for use outside the United States"; and "The assistance to needy persons provided in (4) above shall, insofar as practicable be directed toward community and other self-help designed to alleviate the causes of the need for such assistance."

(d) Section 8 of Public Law 85–931 (72 Stat. 1792) is amended (1) by inserting a period in lieu of the colon after the word "Act" and striking out the proviso; (2) by inserting after the word "manufactured" the word "entirely"; and (3) by inserting before the comma following the words "surplus supply" the words "in the same manner as any other agricultural commodity or product is made available".

(e) Section 407 of the Agricultural Act of 1949, as amended, is amended by striking the period at the end of the third sentence thereof and adding the following: ": *Provided,* That whenever the Secretary of Agriculture determines that the carryover at the end of any marketing year of a price supported agricultural commodity for which a voluntary adjustment program is in effect will be less than 25 per centum (35 per centum in the case of wheat) of the estimated export and domestic consumption of such commodity during such marketing year, the Commodity Credit Corporation shall not sell any of its stocks of such commodity during such year for unrestricted use at less than 115 per centum (120 per centum in the case of wheat whenever its carryover will be less than 25 per centum of such estimated export and domestic consumption) of the current price support loan plus reasonable carrying charges."

Sec. 4.[1] (a) Commercial export sales of agricultural commodities out of private stocks on credit terms of not to exceed three years may be financed by the Commodity Credit Corporation under its export credit sales program.

(b) [2] (1) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation. In addition, the corporation may guarantee the repayment of loans made to finance such sales.[3] For the purpose of this paragraph, the term "agricultural commodities" includes wood and processed wood products, as defined in section 1125(d) of the Food Security Act of 1985 (7 U.S.C. 1736t(d)).[4]

(2) No export sale may be financed and no loan may be guaranteed,[5] under this subsection unless the Secretary of Agriculture determines that the sale will—

(A) develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities without displacing normal commercial sales;

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[1] 7 U.S.C. 1707a. Sec. 4 was amended and restated by sec. 101 of the Agricultural Trade Act of 1978 (92 Stat. 1685). It formerly read as follows:

"Sec. 4. Commercial sales of agricultural commodities out of private stocks on credit terms of not to exceed three years may be financed by Commodity Credit Corporation under its Export Credit Sales Program. There are hereby authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation annually for its actual costs incurred or to be incurred under its Export Credit Sales Program."

[2] Sec. 4(b) was comprehensively amended by sec. 1131 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1486).

[3] The sentence beginning with the words "In addition" was added by sec. 1131 (1) of Public Law 99–198.

[4] The sentence beginning with the words "For the purpose" was added by sec. 4402(b) of Public Law 100–418 (102 Stat. 1400).

[5] The reference to guarantee was added by sec. 1131 of Public Law 99–198.

(B) otherwise improve the capability of the importing nation to purchase and use, on a long-term basis, United States agricultural commodities; or

(C) [6] otherwise promote the export of United States agricultural commodities.

(3) [7] The Secretary is encouraged, to the maximum extent practicable, to finance or guarantee the export sales of agricultural commodities under this subsection to purchasers from—

(A) countries that are previous recipients of credit extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.);

(B) countries unable, as determined by the Secretary, to utilize other short-term export credit programs offered by the Secretary or the Commodity Credit Corporation; and

(C) countries that are friendly countries, as defined in section 103(d) of such Act (7 U.S.C. 1703(d)).

(4) Consistent with the provisions of paragraph (2) of this subsection, intermediate credit financing or guarantees [5] under this subsection may be made available for the following uses:

(A) to establish reserve stocks consistent with international commodity agreements or other stock building plans acceptable to the United States;

(B) the export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations;

(C) where determined feasible, for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (through the use of local currency generated from the import and sale of United States agricultural commodities to finance all or part of such facilities);

(D) to meet credit competition for agricultural export sales;

(E) [8] to finance the importation of agricultural commodities by developing nations for use in meeting their food and fiber needs; and

(F) [8] otherwise to promote the export sales of agricultural commodities.

(5) Intermediate financing or guarantees,[5] under this subsection may not be used for the purpose of foreign aid or debt rescheduling:

(6)(A) The terms of credit for export sales financed under this subsection shall include the following terms:

(i) [9] Repayment shall be in dollars with interest at a rate determined by the Secretary.

(ii) The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require an initial payment from the purchaser at the time of sale or shipment of the agricultural commodity.

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[6] Clause (C) was added by sec. 1131 of Public Law 99-198.

[7] Paragraph (3) was added by sec. 1131(5) of Public Law 99-198.

[8] Subparagraphs (E) and (F) were added by sec. 1131 of Public Law 99-198.

[9] Sec. 1131 of Public Law 99-198 provided that the rate shall be determined by the Secretary in contrast to previously stated guidelines.

(B)[10] Contracts of guarantee under this subsection shall contain such terms and conditions as the Commodity Credit Corporation shall determine.

(7)[11] The Secretary shall, wherever feasible, obtain commitments from purchasers that will prevent resale or transshipment to other nations of agricultural commodities purchased with financing or guarantees[5] provided under this subsection.

(8) The provisions of the cargo preference laws shall not apply to export sales financed or guaranteed[5] under this subsection.

(9) The authority provided under this subsection shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(10)[12] For purposes of guaranteeing export sales under this subsection, the Commodity Credit Corporation shall make available—

(A) for each of the fiscal years ending September 30, 1986, through September 30, 1988, not less than $500,000,000; and

(B) for each of the fiscal years ending September 30, 1989 and September 30, 1990, not more than $1,000,000,000.

(c) The term "agricultural commodity" as used in this section includes any agricultural commodity (including fish, without regard to whether such fish are harvested in aquacultural operations)[13] or product thereof.

(d)[14] (1) There is hereby established in the Treasury a revolving fund to be known as the Agricultural Export Credit Revolving Fund, which shall be available without fiscal year limitation for use by the Commodity Credit Corporation (hereafter referred to in this subsection as the "Corporation" for financing in accordance with this section and section 5(f) of the Commodity Credit Corporation Charter Act the following—

(A) commercial export sales of United States agricultural commodities out of private stocks or stocks owned or controlled by the Corporation on credit terms of not to exceed three years;

(B) export sales of United States breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations; and

(C) the establishment of facilities in importing countries to improve the capacity of such countries for handling, marketing, processing, storing, or distributing fungible agricultural commodities produced in and exported from the United States (through the use of local currency generated from the sale of United States agricultural commodities).

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[10] Sec. 1131(8) (D) of Public Law 99–198 added subpar. (B).

[11] Sec. 1131 (3) and (4) of Public Law 99–198 struck out the previous par. (7) and redesignated the previous par. (6) as par. (7). Par. (7) previously included restrictions and guidelines relating to agreements to finance export sales.

[12] Paragraph (10) was added by sec. 1131(11) of Public Law 99–198.

[13] Sec. 405(c) of Public Law 98–623 (98 Stat. 3409) added this parenthetical phrase.

Sec. 405(d) of Public Law 98–623 further stated that for the purposes of sec. 135 of the Omnibus Budget Reconciliation Act of 1982 (page 1096) the amendment made by sec. 405(c) shall be considered to have taken effect before the date of enactment of the 1982 Act (September 8, 1982).

[14] Subsec. (d) was added by sec. 1201 of Public Law 97–98 (95 Stat. 1274).

(2) The Corporation shall use the revolving fund only to extend credit for purposes of market development and expansion and only where there is substantial potential for developing or enhancing regular commercial markets for United States agricultural commodities.

(3) The Secretary of Agriculture shall ensure that the revolving fund is used in such a manner as to involve equitable use of the funds to finance sales to the greatest feasible number of countries consistent with maximizing market opportunities. In carrying out this objective, the Secretary shall establish procedures under which—

(A) not less than 85 per centum of the estimated amount in the revolving fund for any fiscal year shall be made available for the purposes provided in clause (A) of paragraph (1) of this subsection; and

(B) not to exceed 25 per centum of the estimated amount in the revolving fund for any fiscal year shall be made available for the financing of credit sales to any one country for the purposes described in paragraph (1) of this subsection.

(4) There are authorized to be appropriated to the Agricultural Export Credit Revolving Fund such sums as may be necessary to carry out the provisions of this subsection. All funds received by the Corporation in payment for credit extended by the Corporation using the revolving fund, including interest or other receipts on investments and credit obligations, in financing export sales of the types specified in paragraph (1) of this subsection shall be added to and become a part of such revolving fund.

(5) The Secretary shall submit an annual report to Congress not later than December 1 of each year with respect to the use of the revolving fund in carrying out export credit sales by the Corporation in the previous fiscal year. Such report shall include, for the previous fiscal year, the names of the countries extended credit under this subsection, the total amount of such credit extended to each such country, the names of the United States exporters that received any such credit, the total amount of credit provided to each such exporter stated separately for each commodity for which the credit was extended, and a discussion and evaluation of the market development and expansion activities of the Corporation under this subsection during such fiscal year. The first such report shall be submitted to Congress not later than December 1, 1982.

(6) The revolving fund created by this subsection is abolished effective October 1, 1990,[15] and all unobligated money in such fund on September 30, 1990,[15] shall be transferred to and become part of the miscellaneous receipts account of the Treasury.

(7) The authority provided under this subsection shall be in addition to, and not in lieu of, any authority granted to the Secretary or the Corporation under any other provision of law.

(8) The authority provided under this subsection to incur obligations to make loans shall be effective only to the extent that such obligations do not exceed annual limitations on new direct loan obligations which shall be provided in annual appropriations Acts.

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[15] Sec. 1130 of the Food Security Act of 1985 changed this date from 1984 to 1990.

Sec. 5. This Act shall take effect as of January 1, 1967, except that section 4 shall take effect upon enactment.

3. Agricultural Trade

a. Agricultural Competitiveness and Trade Act of 1988

Partial text of Public Law 100–418 [Omnibus Trade and Competitiveness Act of 1988, H.R. 4848], 102 Stat 1107 at 1388, approved August 23, 1988

AN ACT To enhance the competitiveness of American industry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TITLE IV—AGRICULTURAL TRADE

SEC. 4001. SHORT TITLE.

This title may be cited as the "Agricultural Competitiveness and Trade Act of 1988".

SUBTITLE A—FINDINGS, POLICY, AND PURPOSE

SEC. 4101. FINDINGS.

Congress finds that—

(1) United States agricultural exports have declined by more than 36 percent since 1981, from $43,800,000,000 in 1981 to $27,900,000,000 in 1987;

(2) the United States share of the world market for agricultural commodities and products has dropped by 20 percent during the last 6 years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

(4) the loss of $1,000,000,000 in United States agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 60,000 nonagricultural jobs;

(5) the loss of agricultural exports threatens family farms and the economic well-being of rural communities in the United States;

(6) factors contributing to the loss of United States agricultural exports include changes in world agricultural markets such as—

(A) the addition of new exporting nations;

(B) innovations in agricultural technology;

(C) increased use of export subsidies designed to lower the price of commodities on the world market;

(D) the existence of barriers to agricultural trade;

(E) the slowdown in the growth of world food demand in the 1980's due to cyclical economic factors, including currency fluctuations and a debt-related slowdown in the economic growth of agricultural markets in certain developing countries; and

(F) the rapid buildup of surplus stocks as a consequence of favorable weather for agricultural production during the 1980's;

(7) increasing the volume and value of exports is important to the financial well-being of the farm sector in the United States and to increasing farm income in the United States;

(8) in order to increase agricultural exports and improve prices for farmers and ranchers in the United States, it is necessary that all agricultural export programs of the United States be used in an expeditious manner, including programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(9) greater use should be made by the Secretary of Agriculture of the authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) to provide intermediate credit financing and other assistance for the establishment of facilities in importing countries to—

(A) improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and

(B) increase livestock production to enhance the demand for United States feed grains;

(10) food aid and export assistance programs in developing countries stimulate economic activity which causes incomes to rise, and, as incomes rise, diets improve and the demand for and ability to purchase food increases;

(11) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs; and

(12) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives—

(A) provides communities with health care, credit systems, and tools for development; and

(B) establishes the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products.

SEC. 4102. POLICY.

It is the policy of the United States—

(1) to provide, through all possible means, agricultural commodities and products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) to support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) to support fully the negotiating objectives set forth in section 1101(b) of this Act to eliminate or reduce substantially constraints on fair and open trade in agricultural commodities and products;

(4) to use statutory authority to counter unfair foreign trade practices and to use all available means, including export promotion programs, and, if necessary, restrictions on United States imports of agricultural commodities and products, in order to encourage fair and open trade; and

(5) to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade.

SEC. 4103. PURPOSE.

It is the purpose of this title—

(1) to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers to participate in international agricultural trade, by strengthening the operations of the Department of Agriculture; and

(2) to improve the competitiveness of United States agricultural commodities and products in the world market.

SUBTITLE B—AGRICULTURAL TRADE INITIATIVES

PART 1—GENERAL PROVISIONS

SEC. 4201. LONG-TERM AGRICULTURAL TRADE STRATEGY REPORTS.

(a) CONTENTS.—The Secretary of Agriculture shall prepare annually, and the President shall submit together with the budget for each fiscal year, a Long-Term Agricultural Trade Strategy Report establishing recommended policy goals for United States agricultural trade and exports, and recommended levels of spending on international activities of the Department of Agriculture, for 1-, 5-, and 10-fiscal year periods. In preparIng each such report, the Secretary shall consult with the United States Trade Representative to ensure that the report is coordinated with the annual national trade policy agenda included in the annual report for the relevant fiscal year prepared under section 163 of the Trade Act of 1974 (19 U.S.C. 2213). Each such report shall include—

(1) findings with respect to trends in the comparative position of the United States and other countries in the export of agricultural commodities and products, organized by major commodity group and including a comparative analysis of the cost of production of such commodities and products;

(2) findings with respect to new developments in research conducted by other countries that may affect the competitiveness of United States agricultural commodities and products;

(3) findings and recommendations with respect to the movement of United States agricultural commodities and products in nonmarket economies;

(4) as appropriate, the agricultural trade goals for each agricultural commodity and value-added product produced in the United States for the period involved, expressed in both physical volume and monetary value;

(5) recommended Federal policy and programs to meet such agricultural trade goals;

(6) recommended levels of Federal spending on international programs and activities of the Department of Agriculture to meet such agricultural trade goals;

(7) recommended levels of Federal spending on programs and activities of agencies other than the Department of Agriculture to meet such agricultural trade goals; and

(8) recommended long-term strategies for growth in agricultural trade and exports—

(A) taking into account United States competitiveness, trade negotiations, and international monetary and exchange rate policies; and

(B) including specific recommendations with respect to export enhancement programs (including credit programs and export payment-in-kind programs), market development activities, and foreign agricultural and economic development assistance activities needed to implement such strategies.

(b) TREATMENT AS ANNUAL BUDGET SUBMISSION.—Provisions of each Long-Term Agricultural Trade Strategy Report that relate to recommended levels of spending on international activities of the Department of Agriculture for the upcoming fiscal year shall be treated as the President's annual budget submission to Congress for such activities for such fiscal year, and shall be submitted along with the budget request for other programs of the Department of Agriculture for such fiscal year.

(c) SUCCEEDING REPORTS.—The Secretary of Agriculture, in each annual Long-Term Agricultural Trade Strategy Report, shall identify any recommendations in such report that might modify the long-term policy contained in any previous report.

(d) RECOMMENDATIONS FOR CHANGES IN LAW.—The President shall include in each annual budget submission recommendations for such changes in law as are required to meet the long-term goals established in the Report.

SEC. 4202. TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS.

The Secretary of Agriculture shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

SEC. 4203. JOINT DEVELOPMENT ASSISTANCE AGREEMENTS WITH CERTAIN TRADING PARTNERS.

(a) DEVELOPMENT OF PLAN.—With respect to any country that has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State and (through the Secretary of State) representatives of such country, may develop an appropriate plan under which that country would purchase United States agricultural commodities or products for use in development activities in developing countries. In developing such plan, the Secretary of Agriculture shall take into consideration the agricultural economy of such country, the nature and extent of such country's programs to assist developing countries, and other relevant factors. The Secretary of Agriculture shall submit each such plan to the President as soon as practicable.

(b) AGREEMENT.—The President may enter into an agreement with any country that has a positive trade balance with the United States under which that country would purchase United States agricultural commodities or products for use in agreed-on development activities in developing countries.

SEC. 4204. REORGANIZATION EVALUATION.

The Secretary of Agriculture shall evaluate the reorganization proposal recommended by the National Commission on Agricultural Trade and Export Policy and other proposals to improve management of international trade activities of the Department of Agriculture. To assist the Secretary in the evaluation, the Secretary shall appoint a private sector advisory committee of not less than 4 members, who shall be appointed from among individuals representing farm and commodity organizations, market development cooperators, and agribusiness. Not later than April 30, 1989, the Secretary shall report the findings of the evaluation to Congress, together with the views and recommendations of the private sector advisory committee.

SEC. 4205. CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS.

(a) IN GENERAL.—The Secretary of Agriculture may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

(b) NOT EMPLOYEES OF THE UNITED STATES.—Such individuals shall not be regarded as officers or employees of the United States.

SEC. 4206. ESTABLISHMENT OF TRADE ASSISTANCE OFFICE.

(a) ESTABLISHMENT WITHIN THE FOREIGN AGRICULTURAL SERVICE.—The Secretary of Agriculture shall establish an office within the Foreign Agricultural Service to carry out the duties described in subsections (b) and (c) under the direction of the Administrator of the Foreign Agricultural Service.

(b) PRIMARY RESPONSIBILITY.—The office established under subsection (a) shall provide trade assistance and information to persons who are interested in exporting United States agricultural commodities and products or who believe they have been injured by unfair trade practices with respect to trade in agricultural commodities and products.

(c) DUTIES.—The office established under subsection (a) shall—

(1) compile and make readily available international trade information, including information concerning trade practices carried out by other countries to promote the export of agricultural commodities and products, trade barriers imposed by other countries, unfair trade practices of other countries, and remedies under United States law that might be available to persons injured by unfair trade practices; and

(2) provide information and assistance to persons interested in participating in programs carried out by the Foreign Agricultural Service, the Commodity Credit Corporation, and other

agencies with respect to the international marketing and export of domestically produced agricultural commodities and products or who believe they have been injured by unfair trade practices of other countries with respect to trade in agricultural commodities and products.

(d) Report.—

(1) Deadline for submission.—Not later than 60 days after the end of each fiscal year, the Administrator of the Foreign Agricultural Service shall submit a report described in paragraphs (2) and (3) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) Contents of each report.—Each such report shall describe—

(A) the type of information that is currently available through the office established by this section; and

(B) the type of assistance provided to persons during the previous fiscal year.

(3) Additional contents for first report.—In the first report submitted under this section, the Administrator shall also—

(A) provide an analysis of the information currently available concerning foreign agricultural trade practices and domestic agricultural trade promotion programs and the methods used to disseminate such information;

(B) provide recommendations with respect to additional information and assistance that should be made available to interested persons; and

(C) provide an analysis of the degree that overlapping information and reports concerning agricultural trade are prepared.

PART 2—FOREIGN AGRICULTURAL SERVICE

SEC. 4211. PERSONNEL OF THE SERVICE.

(a) Increased Level.—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Foreign Agricultural Service of the Department of Agriculture (hereinafter in this part referred to as the "Service") shall not be less than 900 full-time employees during each of the fiscal years 1989 and 1990.

(b) Rank of Foreign Agricultural Service Officers in Foreign Missions.—Notwithstanding any other provision of law, the Secretary of State shall, upon the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad. The number of Service officers holding such diplomatic title at any time may not exceed eight.

SEC. 4212. AGRICULTURAL ATTACHE EDUCATIONAL PROGRAM.

The Administrator of the Service (hereinafter in this part referred to as the "Administrator") shall establish a program within the Service that directs attaches of the Service who are reassigned from abroad to the United States, and other personnel of the Service, to visit and consult with producers and exporters of agricultural commodities and products and State officials throughout the United States concerning various methods to increase exports of United States agricultural commodities and products.

SEC. 4213. PERSONNEL RESOURCE TIME.

(a) In General.—In planning the overall allocation of personnel resource time of agricultural attaches of the Service, the Administrator shall ensure that the maximum quantity practicable of the overall personnel resource time of agricultural attaches of the Service be devoted to activities designed to increase markets for United States agricultural commodities and products.

(b) Reports.—The Administrator shall submit reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describe the allocation of personnel resource time of agricultural attaches during the 1988 and 1989 fiscal years. The report for fiscal year 1988 shall be submitted not later than September 30, 1988, or 30 days after the date of the enactment of this Act, whichever is later. The report for fiscal year 1989 shall be submitted not later than September 30, 1989.

SEC. 4214. COOPERATOR ORGANIZATIONS.

(a) Sense of Congress.—It is the sense of Congress that the foreign market development cooperator program of the Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

(b) Commodities for Cooperator Organizations.—The Secretary of Agriculture may make available to cooperator organizations agricultural commodities owned by the Commodity Credit Corporation, for use by such cooperators in projects designed to expand markets for United States agricultural commodities and products.

(c) Relation to Funds.—Commodities made available to cooperator organizations under this section shall be in addition to, and not in lieu of, funds appropriated for market development activities of such cooperator organizations.

(d) Conflicts of Interest.—The Secretary shall take appropriate action to prevent conflicts of interest among cooperator organizations participating in the cooperator program.

(e) Evaluation.—It is the sense of Congress that the Secretary should establish a consistent objective means for the evaluation of cooperator programs.

SEC. 4215. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

There are authorized to be appropriated for the Service, in addition to any sums otherwise authorized to be appropriated by any provision of law other than this section, $20,000,000 for each of the fiscal years 1988, 1989, and 1990 for market development activities, including—

(1) expansion of the agricultural attache service;

(2) expansion of international trade policy activities of the Service;

(3) enhancement of the Service worldwide market information system;

(4) increasing the number of trade shows and exhibitions conducted by the Service and upgrading the quality of United States representation at trade shows and exhibitions; and

(5) developing markets for value-added beef, pork, and poultry products.

SUBTITLE C—EXISTING AGRICULTURAL TRADE PROGRAMS

SEC. 4301. TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT.

(a) CERTIFICATION TO CONGRESS.—Notwithstanding any other provision of law, if, before January 1, 1990, a law has not been enacted in accordance with section 151 of the Trade Act of 1974 (19 U.S.C. 2191) that implements an agreement negotiated under the Uruguay round of multilateral trade negotiations conducted under the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT negotiations") concerning agricultural trade, the President, not later than 45 days after such date—

(1) shall submit a report to the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate describing the status of the GATT negotiations concerning agricultural trade, the progress that has been made to date in the negotiations, the general areas of disagreement, the anticipated date of completion of the negotiations, and the changes in domestic farm programs that are likely to be necessary on conclusion of the negotiations; and

(2) shall certify to Congress whether or not significant progress has been made in the negotiations.

(b) MARKETING LOAN.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), if the President does not certify that significant progress has been made towards reaching a GATT agreement concerning agricultural trade, the President shall, not later than 60 days before the beginning of the marketing year for the 1990 crop of wheat, instruct the Secretary of Agriculture to permit producers to repay loans made under sections 107D(a), 105C(a), and 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a), 1444e(a), and 1446(i)) for each of the 1990 crops of wheat, feed grains, and soybeans at a level that is the lesser of—

(A) the loan level determined for each such crop; or

(B) the prevailing world market price for each such crop, as determined by the Secretary.

(2) WAIVER.—The President may waive the application of paragraph (1) by certifying to Congress that implementation of the marketing loan would harm further negotiations.

(3) DISCONTINUANCE.—If, after the implementation of a marketing loan in accordance with paragraph (1), the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the marketing

loan program implemented in accordance with paragraph (1) would harm such progress, the President may instruct the Secretary of Agriculture to discontinue the marketing loan program.

(c) Export Enhancement.—

(1) In general.—Except as provided in paragraph (4), if the President exercises the authority to waive or discontinue the marketing loan program provided for in paragraph (2) or (3) of subsection (b), the President shall instruct the Secretary of Agriculture to make agricultural commodities and products acquired by the Commodity Credit Corporation equaling at least $2,000,000,000 in value available during the 1990 through 1992 fiscal years to United States exporters of domestically produced agricultural commodities and products for the purpose of making exports of such commodities and products available on the world market at competitive prices.

(2) Nondisplacement.—Commodities and products made available in accordance with this subsection shall be in addition to, and not in lieu of, other commodities and products made available for the purpose of enhancing the export of United States commodities and products.

(3) Use of Commodity Credit Corporation.—The Secretary of Agriculture may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.

(4) Exception.—The President may waive the application of paragraph (1) by certifying to Congress that implementation of the export enhancement program provided for by this subsection would be a substantial impediment to achieving a successful agreement under the GATT.

(5) Discontinuance.—If, after the implementation of paragraph (1), the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the export enhancement program implemented in accordance with paragraph (1) would harm such progress, the President may, not before 60 days after the consultation required under subsection (d) with respect to such certification, instruct the Secretary of Agriculture to suspend the implementation of such program.

(d) Consultation.—The President may not make a certification to Congress under this section unless the United States Trade Representative—

(1) consults about the certification with—

(A) the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives; and

(B) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate; and

(2) reports to the President the results of such consultation.

SEC. 4302. PRICE SUPPORT PROGRAMS FOR SUNFLOWER SEEDS AND COTTONSEED.

(a) Sunflower Seeds.—If producers are permitted to repay loans for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of sunflower seeds through loans and purchases for the 1990 crop of sunflowers in accordance with section 201(l) of the Agricultural Act of 1949.

(b) COTTONSEED.—If a producer is permitted to repay a loan for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of the 1990 crop of cottonseed at such level as the Secretary determines will cause cottonseed to compete on equal terms with soybeans on the market. The Secretary shall carry out this subsection using the funds, facilities, and authorities of the Commodity Credit Corporation.

(c) DISCONTINUANCE.—If the marketing loan program for the 1990 crop of soybeans is discontinued under section 4301(b)(3) of this Act, the Secretary shall discontinue the price support programs for sunflower seeds and cottonseed required by this section.

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SEC. 4305. EXPORT CREDIT GUARANTEE PROGRAM.

It is the sense of Congress that, to the extent that the Commodity Credit Corporation makes a specified allocation of credit guarantees available under the export credit guarantee program referred to in section 1125 of the Food Security Act of 1985 (7 U.S.C. 1736t) for short-term credit extended to finance the export sales of United States agricultural commodities and products, such allocation should be made on a country-only basis and not on a commodity basis or a commodity and country basis.

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SEC. 4309. BARTER OF AGRICULTURAL COMMODITIES.

In recognition of the importance of barter programs in expanding agricultural trade, it is the sense of Congress that the Secretary of Agriculture should expedite the implementation of section 416(d) of the Agricultural Act of 1949 (7 U.S.C. 1431(d)) and section 1167 of the Food Security Act of 1985 (7 U.S.C. 1727g note and 1736aa), relating to the barter of agricultural commodities.

SEC. 4310. MINIMUM LEVEL OF FOOD ASSISTANCE.

(a) ANNUAL MINIMUM.—It is the sense of Congress that—

(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

(2) accordingly, the total amount of food assistance made available to foreign countries under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.

(b) DEFINITION.—For purposes of this section, the term "foreign economic assistance" includes—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691

et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or any other law authorizing economic assistance for foreign countries; and

(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other multilateral development bank.

SEC. 4311. FOOD AID AND MARKET DEVELOPMENT.

(a) Policy Statement.—It is the policy of the United States to use food aid and agriculturally-related foreign economic assistance programs more effectively to develop markets for United States agricultural commodities and products.

(b) Requirement.—The President (or, as appropriate, the Secretary of Agriculture) shall encourage recipient countries under food assistance agreements entered into under any program administered by the Secretary to agree to give preference to United States food and food products in future food purchases.

Subtitle D—Wood and Wood Products

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SEC. 4404. USE OF DEPARTMENT OF AGRICULTURE PROGRAMS.

The Secretary of Agriculture shall actively use Department of Agriculture concessional programs and export credit guarantee programs to promote the export of wood and processed wood products.

Subtitle E—Studies and Reports

SEC. 4501. STUDY OF CANADIAN WHEAT IMPORT LICENSING REQUIREMENTS.

(a) Findings.—Congress finds that—

(1) Canadian importers of wheat or products containing a minimum of 25 percent wheat (except packaged wheat products for retail sale) from the United States must obtain import licenses from the Canadian Wheat Board;

(2) the Canadian Wheat Board requires such importers of United States wheat and wheat products to prove that the wheat or wheat products to be imported are not readily available in Canada before issuance of an import license, and therefore, for all practical purposes, such licenses are not granted by the Canadian Wheat Board;

(3) the licensing requirements of the Canadian Wheat Board's import licensing program result in a trade barrier on the importation of United States wheat and wheat products; and

(4) Canada is a member of the General Agreement on Tariffs and Trade and, under such agreement, member countries should, in general, eliminate import licensing programs that operate as nontariff trade barriers.

(b) Study.—The Secretary of Agriculture shall conduct a study of the Canadian Wheat Board's import licensing program to—

(1) assess the effect of the Canadian Wheat Board's import licensing program referred to in subsection (a) on wheat producers, processors, and exporters in the United States; and

(2) determine—

(A) the nature and extent of the licensing requirements of the Canadian Wheat Board's import licensing program; and

(B) the estimated effect of the Canadian Wheat Board's import licensing program in reducing exports of United States wheat and wheat products to Canada.

(c) SUBMISSION OF RESULTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the results of the study conducted under subsection (b) to the United States Trade Representative.

(d) CONSULTATION WITH CONGRESS.—Not later than 90 days after the results of the study are submitted, the Secretary and the United States Trade Representative shall consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate on the status of efforts to negotiate the elimination of such Canadian licensing requirements.

SEC. 4502. IMPORT INVENTORY.

(a) COMPILATION AND REPORT ON IMPORTS.—The Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the United States Trade Representative, and the heads of all other appropriate Federal agencies, shall compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The report shall be limited to those statistics that such agencies already obtain for other purposes.

(b) COMPILATION AND REPORT ON CONSUMPTION.—The Secretary shall compile and report to the public data on the total quantity of production and consumption of domestically produced raw and processed agricultural products.

(c) ISSUING OF DATA.—The reports required by this section shall be made in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of domestic agricultural products. The Secretary shall issue such reports on an annual basis, with the first report required not later than 1 year after the date of enactment of this Act.

SEC. 4503. STUDY RELATING TO HONEY.

(a) STUDY.—The Secretary of Agriculture shall conduct a study to determine the effect of imported honey on United States honey producers, the availability of honey bee pollination within the United States, and whether there is reason to believe imports of honey tend to interfere with or render ineffective the honey price support program of the Department of Agriculture.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4504. STUDY OF DAIRY IMPORT QUOTAS.

(a) Study.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall conduct a study to determine whether, and to what extent, the price support program for milk established under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) would be affected by a reduction in, or elimination of, limitations imposed on the importation of certain dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as a result of multilateral trade negotiations, including negotiations under the General Agreement on Tariffs and Trade. In conducting this study, the Secretary shall assess the likelihood of other nations' agreeing to reduce or eliminate their domestic dairy price stabilization, export subsidization, or import control programs in such multilateral negotiations.

(b) Report.—The Secretary shall submit a report describing the results of the study, together with any recommendations, to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4505. REPORT ON INTERMEDIATE EXPORT CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the use of authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), to provide intermediate credit financing and other trade assistance for the establishment of facilities in importing countries—

(1) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products;

(2) to increase livestock production in order to enhance the demand for United States feed grains; and

(3) to increase markets for United States livestock and livestock products.

SEC. 4506. IMPORTED MEAT, POULTRY PRODUCTS, EGGS, AND EGG PRODUCTS.

(a) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to Congress—

(1) specifying the planned distribution, in fiscal years 1988 and 1989, of the resources of the Department of Agriculture available for sampling imported covered products to ensure compliance with the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection

Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) that govern the level of residues of pesticides, drugs, and other products permitted in or on such products;

(2) describing current methods used by the Secretary to enforce the requirements of such Acts with respect to the level of residues of pesticides, drugs, and other products permitted in or on such products;

(3) responding to the audit report of the Inspector General of the Department of Agriculture, Number 38002—2—hy, dated January 14, 1987;

(4) providing a summary with respect to the importation of covered products during fiscal years 1987 and 1988 that specifies—

(A) the number of samples of each such product taken during each such fiscal year in carrying out the requirements described in paragraph (1); and

(B) for each violation of such requirements during each such fiscal year—

(i) the covered products with respect to which such violation occurred;

(ii) the residue in or on such product in violation of such requirements;

(iii) the country exporting such product;

(iv) the actions taken in response to such violation and the reasons for such actions; and

(v) the level of testing conducted by the countries exporting such products;

(5) describing any research conducted by the Secretary to develop improved methods to detect residues subject to such requirements in or on covered products; and

(6) providing any recommendations the Secretary considers appropriate for legislation to add or modify penalties for violations of laws, regulations, and other enforcement requirements governing the level of residues that are permitted in or on imported covered products.

(b) REVISION.—Not later than November 15, 1989, the Secretary of Agriculture shall revise, as necessary, the report prepared under subsection (a) and submit the revision to Congress.

(c) DEFINITION.—As used in this section, the term "covered products" means meat, poultry products, eggs, and egg products.

SEC. 4507. STUDY OF CIRCUMVENTION OF AGRICULTURAL QUOTAS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study with respect to—

(1) whether articles containing dairy products (including chocolate in blocks of at least 10 pounds and other such products) are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) whether products containing refined sugar are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of refined sugar and sugar containing products imposed under Federal law.

(b) REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall investigate—

(1) the efforts undertaken by the United States Customs Service in the enforcement of the existing quantitative limitations described in subsection (a);

(2) the change in the composition, volume, and pattern of imports containing sugar and imports containing dairy products subsequent to the initial imposition of the quantitative limitations;

(3) the effectiveness of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in preventing the circumvention or avoidance of the quantitative limitations; and

(4) the use of United States foreign trade zones to circumvent the quantitative limitations.

(c) REPORT.—On completion of the study required by this section, the Comptroller General shall report the results of the study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4508. STUDY OF LAMB MEAT IMPORTS.

(a) STUDY.—The Secretary of Agriculture shall conduct a study of the market for lamb meat products in the United States, focusing on production, demand, rate of return on investment, marketing and trends with respect to the level of imports of live lamb and lamb meat products, and the effects of such imports on the production of lamb meat in the United States.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report setting forth the results of such study. If appropriate, the report should include proposals on ways to bring about a long-term increase in per capita consumption of lamb meat products and ways to encourage a more profitable and productive domestic industry to ensure a plentiful and affordable supply of lamb meat.

SEC. 4509. ROSE STUDY.

(a) STUDY.—Not later than 240 days after the date of enactment of this Act, the United States International Trade Commission shall, pursuant to section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), complete a study with respect to—

(1) competitive factors affecting the domestic rose-growing industry, including competition from imports;

(2) the effect that the European Community's tariff rate for imported roses has on world trade of roses; and

(3) the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses.

(b) REPORT.—The Commission shall report the results of the study conducted in accordance with subsection (a) as soon as the study is completed to—

(1) the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives;

(2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(3) the United States Trade Representative;

(4) the Secretary of Commerce; and

(5) the Secretary of Agriculture.

(c) REVIEW.—It is the sense of Congress that the United States Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture, should use all available remedies, programs, and policies within their respective jurisdictions to assist the domestic rose industry to maintain and enhance its ability to compete in the domestic and world market for roses if, after their review of the study and report required by this section, such officials determine that such action is appropriate to counter any adverse effects on the domestic rose industry caused by unfair trade practices of foreign competitors.

SUBTITLE F—MISCELLANEOUS AGRICULTURAL PROVISIONS

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SEC. 4605. STUDY OF INTERNATIONAL MARKETING IN LAND GRANT COLLEGES AND UNIVERSITIES.

It is the sense of Congress that—

(1) land grant colleges and universities (as defined in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(10)) should encourage the study and career objective of international marketing of agricultural commodities and products;

(2) because marketing complements production, international agricultural marketing specialists are needed in a globally competitive world; and

(3) enhanced foreign marketing of United States agricultural commodities and products will help relieve stress in the rural economy.

SEC. 4606. INTERNATIONAL TRADE IN EGGS AND EGG PRODUCTS.

(a) FINDINGS.—Congress finds that—

(1) the system of basic and variable levies of the European Community has severely restricted the export of United States eggs and egg products to European Community member countries;

(2) export subsidies of the European Community have caused displacement of United States egg exports in international markets; and

(3) the Secretary of Agriculture is in the process of certifying the Netherland's inspection procedures for egg products for the purpose of importation into the United States of egg products of the Netherlands.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States Trade Representative should enter into negotiations with the European Community concerning—

(1) duties, tariffs, and other means used by the European Community to limit the access of United States eggs and egg products to European Community markets; and

(2) European Community export subsidies that have had the effect of excluding United States eggs and egg products from other world markets.

SEC. 4607. UNITED STATES ACCESS TO THE KOREAN BEEF MARKET.

(a) FINDINGS.—Congress finds that—

(1) the 1986 United States trade deficit with the Republic of Korea was $7,600,000,000;

(2) the Republic of Korea has banned beef imports since May 1985;

(3) this beef import ban is in contravention of Korea's obligations under the General Agreement on Tariffs and Trade and impairs United States rights under such agreement;

(4) Korea imposes an unreasonably high 20 percent ad valorem tariff on meat products; and

(5) if the Korean beef market were liberalized, the United States, due to comparative advantage, could supply a significant portion of the Korean market for beef, thereby increasing profit opportunities for the United States beef industry while benefiting Korean consumers.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Republic of Korea should take immediate action to fulfill its obligations under the General Agreement on Tariffs and Trade and permit access to its market for United States beef;

(2) the United States should aggressively pursue negotiations to gain access to the Korean market for United States beef;

(3) such negotiations, in addition to elimination of the beef import ban, should address the high tariffs set by the Republic of Korea and the means by which imported beef is distributed in Korea; and

(4) if the Republic of Korea does not show clear evidence that it is engaging in meaningful liberalization of its market for United States beef, the United States should use all available and appropriate means to encourage the Republic of Korea to open its market to United States beef imports.

SEC. 4608. UNITED STATES ACCESS TO JAPANESE AGRICULTURAL MARKETS.

(a) FINDINGS.—Congress finds that—

(1) the United States requested establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT") to examine Japanese import restrictions on 12 categories of agricultural products;

(2) the GATT panel found that Japanese quantitative restrictions on 10 of the 12 product categories are inconsistent with Article XI of the GATT and recommended that Japan elimi-

nate them or otherwise take action to bring them into conformity with the GATT; and

(3) the rationale behind the GATT panel finding can also be applied to other restrictions that Japan maintains on imports from the United States, including—

(A) a virtual ban on imports of United States rice;

(B) a very restrictive quota on imports of United States beef; and

(C) high tariffs and restrictive quotas on imports of United States citrus.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of Japan should immediately take actions to comply with the findings of the GATT panel report;

(2) the Government of Japan should immediately liberalize its trade policies by lowering high tariffs and removing quotas on agricultural imports from the United States, including those imposed on rice, beef, and citrus, in order to avoid any damage to the close relations between Japan and the United States; and

(3) the United States should continue efforts to persuade the Government of Japan to remove its trade barriers.

SEC. 4609. SENSE OF CONGRESS RELATING TO SECTION 22.

It is the sense of Congress that—

(1) the amounts of assessments collected under the no-net-cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Secretary of Agriculture; and

(2) for purposes of any investigation conducted under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission should take into account, as if they are costs to the Federal government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–1 and 1445–2) in determining whether such imported tobacco or articles containing tobacco materially interfere with the tobacco price support program carried out by the Secretary of Agriculture.

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b. Agricultural Trade Act of 1978

Public Law 95-501 [S. 3447], 92 Stat. 1685, approved October 21, 1978

AN ACT To strengthen the economy of the United States through increased sales abroad of United States agricultural commodities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Trade Act of 1978".

TITLE I—INTERMEDIATE CREDIT

Sec. 101. * * * [1]

TITLE II—COMMODITY CREDIT CORPORATION FINANCING OF DEFERRED PAYMENT SALES; CREDIT SALES TO THE PEOPLE'S REPUBLIC OF CHINA

COMMODITY CREDIT CORPORATION FINANCING OF DEFERRED PAYMENT SALES

Sec. 201.[2] (a) To develop new market opportunities for the sale of United States agricultural commodities and to maintain and expand existing foreign markets for such commodities, the Secretary of Agriculture may provide Commodity Credit Corporation financing to exporters of such commodities who wish to provide deferred payment terms to buyers in other nations in order to meet sales competition from other nations or to make additional export sales. Except as otherwise provided in section 202 of this title, financing under this section shall be available only with respect to sales to those nations that are eligible for financing under the short-term export credit sales program conducted by the Commodity Credit Corporation.

(b) Exporters who are willing to sell United States agricultural commodities to foreign buyers on deferred payment terms of not to exceed three years and who must provide such deferred payment terms in order to meet sales competition from other nations, or to make additional export sales, may apply to the Commodity Credit Corporation for financing such sales. Financing under this section shall not be provided by the Corporation until the applicant's export sales plan has been approved by the Corporation and the applicant has established to the satisfaction of the Corporation that exports have been made in accordance with the approved plan.

(c) Repayment to the Commodity Credit Corporation shall be made in dollars by the exporter in accordance with the terms and at interest rates contained in the approved export sales plan. Interest rates on such financing shall be no higher than those charged for financing under the short-term export credit sales program conducted by the Corporation.

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[1] Sec. 101 contained amendments to sec. 4 of the Food for Peace Act of 1966. For text, see page 1043.

[2] 7 U.S.C. 1707b.

(d) The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require a performance guarantee from the exporter at the time of the sale.

(e) Financing agreements with exporters entered into under this section shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

(f) The authority provided under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

CREDIT SALES TO THE PEOPLE'S REPUBLIC OF CHINA

Sec. 202.[3] Notwithstanding any other provision of law, in order to expand and develop markets for United States agricultural commodities, the Commodity Credit Corporation may provide financing for commercial sales of agricultural commodities out of private stocks on terms of not to exceed three years to the People's Republic of China under (1) the short-term export credit sales program conducted by the Corporation, and (2) the deferred payment sales program for exporters established under section 201 of this title.

DEFINITION

Sec. 203.[4] The term "agricultural commodity" as used in this title includes any agricultural commodity or product thereof.

TITLE III—AGRICULTURAL COUNSELORS

Sec. 301. * * *[5]

TITLE IV—ESTABLISHMENT OF UNITED STATES AGRICULTURAL TRADE OFFICES

Sec. 401. Title VI of the Act of August 28, 1954, as amended by title III of this Act, is further amended by—

(1) adding immediately after section 605 a new subtitle B as follows:

"Subtitle B—United States Agricultural Trade Offices

"Sec. 605A. (a) For the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities, the Secretary of Agriculture, after consultation with the Secretary of State, shall establish not less than six nor more than twenty-five United States Agricultural Trade Offices in other nations.

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[3] 7 U.S.C. 1707c.

[4] 7 U.S.C. 1707d.

[5] Sec. 301 contained amendments to title VI of the Act of August 28, 1954 (68 Stat. 908-910, as amended, 7 U.S.C. 1761-1768). These amendments described the designation procedure and assignment procedures of Agricultural Counselors and Agricultural Attachés.

"(b) Each United States Agricultural Trade Office shall be directed and administered by an Agricultural Trade Officer who by reason of training, experience, and attainments is qualified to carry out the purposes of this subtitle. Such Officer shall be appointed by the Secretary of Agriculture.

"(c) Each Agricultural Trade Officer may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no Agricultural Trade Officer (1) may be paid basic pay at a rate in excess of the maximum annual rate of basic pay payable for GS-17 of the General Schedule under section 5332 of such title, or (2) may be paid at a rate in excess of the highest rate paid to an Agricultural Counselor or Attaché, as the case may be, who is appointed under subtitle A of this title to the nation in which such Officer is to serve.

"(d) Each Agricultural Trade Officer shall, through the Agricultural Counselor or Attaché or other senior representative of the Secretary of Agriculture in each nation in which the United States Agricultural Trade Office administered by such Officer exercises its functions, keep the Chief of the United States diplomatic mission fully and currently informed with respect to all activities and operations of such Office.

"(e) Each Agricultural Trade Officer shall be responsible for the exercise of the functions of the United States Agricultural Trade Office, and shall have the authority to direct and supervise all personnel and activities thereof.

"(f) To carry out the functions of United States Agricultural Trade Offices, the Secretary of Agriculture may appoint such other personnel as the Secretary determines to be necessary and may, with the concurrence of the Secretary of State, assign such personnel abroad and employ local nationals for necessary professional and clerical help.

"(g) No employee of any United States Agricultural Trade Office may engage in any business, vocation, or other employment, or have other interests, that are inconsistent with official responsibilities.

"(h) Upon the request of the Secretary of Agriculture, the Secretary of State shall request for Agricultural Trade Officers and personnel of United States Agricultural Trade Offices diplomatic privileges and immunities equivalent to those enjoyed by members of the Foreign Service [6] of comparable rank and salary.

"SEC. 605B. The functions of each United States Agricultural Trade Office shall be to—

"(1) increase the effectiveness of agricultural export promotion efforts through consideration of activities, providing services and facilities for foreign buyers and United States trade representatives, and coordination of market development activities sponsored by the Department of Agriculture;

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[6] Public Law 96-465 (94 Stat. 2162) substituted this reference to "Members of the Foreign Service" in lieu of the words "Foreign Service Personnel."

"(2) establish goals by nation or region and agricultural commodity for developing, expanding, and maintaining markets for United States agricultural commodities;

"(3) initiate programs to achieve the export marketing goals approved by the Department of Agriculture;

"(4) maintain facilities for use by nonresident cooperators, private trade groups, and other individuals engaged in the import and export of United States agricultural commodities where the use of such facilities would aid in the conduct of market development activities, and cooperate, to the maximum extent practicable, with such cooperators, groups, and individuals to expand the level of United States agricultural exports;

"(5) develop and maintain a current listing of trade, government, and other appropriate organizations for each agricultural commodity area and make such listing available to persons with a bona fide interest in exporting or importing United States agricultural commodities;

"(6) originate and provide assistance for exhibits, sales teams, and other functions for the promotion of United States agricultural commodities;

"(7) provide practical assistance for the use of the programs under the Agricultural Trade Development and Assistance Act of 1954, the export credit sales program, the export incentives program, and related programs of the United States Government where use of such programs will serve as a market development tool for United States agriculture;

"(8) supervise project agreements with United States cooperators, coordinate the activities of the United States Agricultural Trade Office with those of the cooperators, and submit annual recommendations to the Secretary of Agriculture on the efficacy of cooperator programs;

"(9) publicize the services offered by the United States Agricultural Trade Office through advertisements in trade journals or by other appropriate means; and

"(10) perform such other functions as the Secretary of Agriculture, in consultation with the Secretary of State, determines to be necessary and proper for achieving the purposes of this subtitle.

"SEC. 605C. Each United States Agricultural Trade Office shall carry out its functions under section 605B in the nation where the United States Agricultural Trade Office is located and in such other nations as the Secretary of Agriculture, in consultation with the Secretary of State, may prescribe in order to carry out the purposes of this subtitle.

"SEC. 605D. Upon the request of the Secretary of Agriculture, the Secretary of State may use the authorities contained in the Foreign Service Buildings Act, 1926, to acquire sites and buildings, including living quarters, for the purpose of establishing United States Agricultural Trade Offices.

"SEC. 605E. United States Agricultural Trade Offices shall be centrally located in the cities of assignment to facilitate foreign trade meetings and foreign trade reliance on such offices for assistance in marketing activities.

"SEC. 605F. Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to a United States Agricultural Trade Office in the performance of its functions. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities so made available.

"SEC. 605G. The provisions of section 604(a) of this title shall apply with respect to personnel appointed and assigned under this subtitle.";

(2) redesignating section 606 as section 606A and inserting immediately after new section 605G, as added by this section, the subtitle designation and new section 606 as follows:

"Subtitle C—Representation Allowances, Regulations, General Provisions, and Authorization for Appropriations

"SEC. 606. Any Agricultural Trade Officer and the senior representative of the Secretary of Agriculture assigned to a nation under subtitle A of this title may, under regulations prescribed by the Secretary of Agriculture, be entitled to receive a representation allowance in an amount determined by considering (1) the extent to which such Agricultural Trade Officer or senior representative can effectively use such funds to further the purposes of this title, (2) travel and entertainment expenses customary in the private trade for persons of comparable rank and salary, and (3) customs and practices in the nation where such Agricultural Trade Officer or senior representative is assigned.";

(3) redesignating sections 602(d), 602(f), and 603 as sections 606B, 606C, and 606D, respectively, and inserting the redesignated sections immediately after section 606A, as redesignated by paragraph (2) of this section;

(4) in section 606C, as redesignated by paragraph (3) of this section, striking out "subsection" wherever that word appears therein and inserting in lieu thereof "section";

(5) redesignating section 602(e) as 602(d); and

(6) adding at the end thereof a new section 609 as follows:

"SEC. 609. The term 'agricultural commodity' as used in this title includes any agricultural commodity or product thereof.".

TITLE V—REORGANIZATION

Sec. 501.[7] (a) There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for International Affairs and Commodity Programs to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for International Affairs and Commodity Programs is authorized to exercise such functions and perform such duties related to foreign agriculture and agricultural stabilization and conservation, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

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[7] 7 U.S.C. 2211a.

(b) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof a new paragraph (69) as follows:

"(69) Under Secretary of Agriculture for International Affairs and Commodity Programs.".

(c) The designation of "Assistant Secretary of Agriculture for International Affairs and Commodity Programs" shall not be used after the date of enactment of this Act.

TITLE VI—GENERAL PROVISIONS AND REPORTS

IMPLEMENTATION OF THIS ACT; REGULATION

Sec. 601.[8] (a) The Secretary of Agriculture shall implement the provisions of this Act as expeditiously as possible consistent with the efficient and effective administration of the programs established under this Act and their integration with related foreign agricultural programs.

(b) The Secretary may issue such regulations as may be necessary to carry out the provisions of this Act.

ANNUAL REPORT ON EXPORT PROMOTION

Sec. 602.[9] The Secretary of Agriculture shall submit to Congress each year a report providing a comprehensive statement of the activities and accomplishments of the Department of Agriculture, including specifically those of the United States Agricultural Trade Offices, in developing, maintaining, and expanding foreign markets for United States agricultural commodities.

INTERAGENCY TASK FORCE ON EXPORT SALES REPORTING

Sec. 603.[10] The Secretary of Agriculture shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing the effectiveness of the export sales reporting provisions of section 812 of the Agricultural Act of 1970. The Secretary shall submit, not later than January 3, 1979, a report of the findings of the task force, including legislative recommendations for improving such reporting provisions, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

REPORT ON TITLE IV OF THE TRADE ACT OF 1974

Sec. 604.[11] Within six months after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress a report detailing the effect on United States agriculture of title IV of the Trade Act of 1974,[12] including a recommendation as to whether the provisions of such title should be repealed or amended.

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[8] 7 U.S.C. 1761 note.

[9] 7 U.S.C. 1765b-1.

[10] 7 U.S.C. 612c-3 note.

[11] 19 U.S.C. 2431 note.

[12] For text, see vol. III, sec. J.

4. Agricultural Act of 1980 and Related Material

a. Agricultural Trade Suspension Adjustment Act of 1980

Partial text of Public Law 96-494 [H.R. 3765], 94 Stat. 2570, approved December 3, 1980, as amended by Public Law 97-98 [S. 884], 95 Stat. 1213 at 1260, approved December 22, 1981

AN ACT To increase the minimum price support loan rates for wheat, feed grains, and soybeans, to improve the farmer-held reserve program for wheat and feed grains, to establish a five-year food security wheat reserve, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1980".

TITLE I—WALNUT AND OLIVE MARKETING ORDERS

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TITLE II—AGRICULTURAL TRADE SUSPENSION ADJUSTMENT ACT OF 1980

SHORT TITLE

Sec. 201. This title may be cited as the "Agricultural Trade Suspension Adjustment Act of 1980".

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ADJUSTED PRICE SUPPORT LOAN LEVELS UNDER THE FARMER-HELD RESERVE PROGRAM FOR THE 1980 AND 1981 CROPS OF WHEAT AND FEED GRAINS

Sec. 203. (a) Section 110(b) of the Agricultural Act of 1949 [1] is amended by—

(1) inserting the following before the period at the end of the first sentence: ": *Provided,* That the Secretary shall make available to producers for the 1980 and 1981 crops of wheat and feed grains price support loans under the producer storage program at such levels as the Secretary determines necessary to mitigate the adverse effects of the restrictions on the export of agricultural products to the Union of Soviet Socialist Republics imposed on January 4, 1980, on the market prices producers receive for their crops, but at not less than $3.30 per bushel for wheat, $2.40 per bushel for corn, and such levels for the other feed grains as the Secretary determines are fair and reasonable in relation to the minimum level for corn, taking into consideration, for barley, oats, and rye, the feeding value of the commodity in relation to corn and other factors specified in

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[1] 7 U.S.C. 1445e.

section 401(b) of this Act and, for grain sorghums, the feeding value and average transportation costs to market of grain sorghums in relation to corn: *Provided further*, That the levels at which loans for the 1980 and 1981 crops of wheat and feed grains are made available to producers under the preceding proviso shall not be used in determining the levels at which producers may repay loans and redeem commodities prior to the maturity dates of the loans under clause (5) of the second sentence of this subsection, or the levels at which the Secretary may call for the repayment of loans prior to their maturity dates under clause (6) of the second sentence of this subsection"; and

(2) in clause (3) of the second sentence after "except that the Secretary may waive or adjust such interest", inserting a comma and the following: "and the Secretary shall waive such interest on loans made on the 1980 and 1981 crops of wheat and feed grains".

(b) Subsection (a) of this section shall become effective October 1, 1980, and any producers who, prior to such date, receive loans on the 1980 crop of the commodity as computed under the Agricultural Act of 1949, as amended prior to the enactment of this Act, may elect after September 30, 1980, to receive loans as authorized under subsection (a) of this section.

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AUTHORITY TO USE THE FUNDS, FACILITIES, AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION TO PURCHASE AGRICULTURAL PRODUCTS INTENDED TO BE EXPORTED TO THE SOVIET UNION

Sec. 206.[2] Notwithstanding any other provision of law, the Secretary of Agriculture may use, subject to such terms and conditions as the Secretary may deem appropriate, the funds, facilities, and authorities of the Commodity Credit Corporation in purchasing and handling agricultural products, other than grains, that—

(1) were intended to be exported to the Union of Soviet Socialist Republics under contracts entered into prior to January 5, 1980, but

(2) cannot be exported under such contracts due to the imposition, on January 4, 1980, of restrictions on the export of agricultural products to the Union of Soviet Socialist Republics,

in the same manner and under the same conditions as the Secretary purchases and handles grains under similar contracts and subject to the imposition of the same restrictions.

SUPPLEMENTAL SET-ASIDE AUTHORITY

Sec. 207. Effective for the 1981 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by adding at the end of title I a new section 113 as follows:

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[2] 15 U.S.C. 714c note.

"SUPPLEMENTAL SET-ASIDE AUTHORITY

"SEC. 113.[3] Notwithstanding any other provision of law or prior announcement made by the Secretary to the contrary, effective for one or more of the 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary may announce and provide for a set-aside of cropland under section 101(h), 103(f)(11), 105A(f), or 107A(f) of this title if the Secretary determines that such action is in the public interest as a result of the imposition of restrictions on the export of any such commodity by the President or other member of the executive branch of Government. In order to carry out effectively a set-aside program authorized under this section, the Secretary may make such modifications and adjustments in such program as the Secretary determines necessary because of any delay in instituting such programs.".

TRADE SUSPENSION RESERVES

Sec. 208.[4] Notwithstanding any other provision of law—

(a) Whenever the President or other member of the executive branch of Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 or any other provision of law and the Secretary of Agriculture determines that such suspension or restriction will result in a surplus supply of such commodity that will adversely affect prices producers receive for the commodity, the Secretary may establish a gasohol feedstock reserve or a feed security reserve, or both, of the commodity, as provided in subsections (c) and (d) of this section, if the commodity is suitable for stockpiling in a reserve.

(b) Within thirty days after the export of any agricultural commodity to a country or area is suspended or restricted as described in subsection (a) of this section, the Secretary of Agriculture shall announce whether a gasohol feedstock reserve or a food security reserve of the commodity, or both, will be established under this section and shall include in such announcement the amount of the commodity that will be placed in such reserves, which shall be that portion of the estimated exports of the commodity affected by the suspension or restriction, as determined by the Secretary, that should be removed from the market to prevent the accumulation of a surplus of the commodity that will adversely affect prices producers receive for the commodity.

(c)(1) To establish a gasohol feedstock reserve under this section, the Secretary of Agriculture may acquire agricultural commodities (the export of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in the production of alcohol for motor fuel through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

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[3] 7 U.S.C. 1445h.
[4] 7 U.S.C. 4001.

(2) The Secretary of Agriculture may dispose of stocks of agricultural commodities acquired under paragraph (1) of this subsection only through sale—

(A) for use in the production of alcohol for motor fuel, at not less than the fuel conversion price (as defined in section 212 of this title) for the commodity involved: *Provided*, That, for wheat and feed grains, if the fuel conversion price for the commodity involved is less than the then current release price at which producers may repay producer storage loans on the commodity and redeem the commodity prior to the maturity dates of the loans, as determined under clause (5) of the second sentence of section 110(b) of the Agricultural Act of 1949, the Secretary may dispose of stocks of the commodity for such use only through sale, at not less than the release price: *Provided further*, That such sales shall only be made to persons for use in the production of alcohol for motor fuel at facilities that, whenever supplies of the commodity are not readily available, can produce alcohol from other agricultural or forestry biomass feedstocks; or

(B) for any other use, when sales for use under clause (A) of this paragraph are impracticable, (i) if there is a producer storage program in effect for the commodity, at not less than 110 per centum of the then current level at which the Secretary may encourage repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949,[5] or, (ii) if there is no producer storage program in effect for the commodity, at not less than the average market price producers received for the commodity at the time the trade suspension was imposed.

(d)(1) To establish a food security reserve under this section, the Secretary of Agriculture may acquire agricultural commodities (the export of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in providing emergency food assistance and urgent humanitarian relief through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

(2) The provisions of subsections (c), (d), (e), (f), and (g)(2) of section 302 of the Food Security Wheat Reserve Act of 1980 shall apply to commodities in any reserve established under paragraph (1) of this subsection, and (except for the last sentence of subsection (c) of section 302) the references to "wheat" in such subsections of

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[5] Sec. 1004 of Public Law 97-98 (95 Stat. 1213) amended clause (i) by raising the level from 105 to 110 per centum and stipulated that the Secretary may "encourage" repayment of producer storage loans rather than "call for" the repayment of such loans.

section 302 shall be deemed to be references to "agricultural commodities".

(3) Any determination by the President or the Secretary of Agriculture under this section shall be final.

(e) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposition of agricultural commodities under this section.

(f) The Secretary of Agriculture shall establish safeguards to ensure that stocks of agricultural commodities held in the reserves established under this section shall not be used in any manner or under any circumstance to unduly depress, manipulate, or curtail the free market.

(g) Whenever stocks of agricultural commodities are disposed of or released from reserves established under this section, as provided in subsections (c)(2) and (d)(2) of this section, the reserves may not be replenished with replacement stocks.

(h) The provisions of this section shall become effective with respect to any suspension of, or restriction on, the export of agricultural commodities, as described in subsection (a) of this section, implemented after the date of enactment of this Act.

ALCOHOL PROCESSOR GRAIN RESERVE

Sec. 209.[6] (a) As used in this section—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "processor" means any person engaged within the United States in the business of manufacturing grain into alcohol for use as a fuel either by itself or in combination with some other product.

(3) The terms "agricultural grain" and "grain" mean any agricultural commodity (A) that is suitable for processing into alcohol for use as a fuel, and (B) with respect to which a price support operation is in effect.

(4) The term "producer storage program" means the producer storage program provided for under section 110 of the Agriculture Act of 1949.

(5) The term "small scale biomass energy project" shall have the same meaning as defined in section 203(19) of the Energy Security Act.

(b) To assist processors in obtaining a dependable supply of grain at reasonable prices, the Secretary may formulate and administer a program under which processors purchasing and storing grain needed by them for manufacturing into alcohol for use as a fuel may obtain a loan from the Secretary on such grain. Loans under this section may be made available only to processors that (1) operate small scale biomass energy projects financed in whole or in part by the United States Government or any agency thereof, and

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[6] 7 U.S.C. 4002.

(2) as determined by the Secretary, are otherwise unable to obtain a dependable supply of grain at reasonable prices for use in such projects.

(c) Except as otherwise provided in this section, loans made under this section to carry out the processor grain reserve program may be made on the same terms and conditions as loans made to carry out the producer storage program.

(d) The amount of the loan that the Secretary may make to an eligible processor at any time on any quantity of grain purchased by the processor shall be determined by multiplying the price support loan rate in effect for such grain at the time the loan is made times the quantity of grain purchased by the processor. The quantity of grain on which one or more loans may be outstanding at any time in the case of any processor may not exceed the estimated quantity of grain needed by such processor for one year of operation.

(e) Whenever any quantity of grain stored in the processor grain reserve under this section is removed from storage by a processor, the processor may be required to replace such grain with an equal quantity, within such period of time as the Secretary shall prescribe by regulation, or repay that portion of the loan represented by the quantity of grain removed from storage.

(f) Grain on which an eligible processor has received a loan under this section may not be used for any purpose other than the manufacture of alcohol for use as a fuel, and the Secretary shall establish such safeguards as the Secretary deems necessary to assure that such grain is not used for any other purpose and is not used in any manner that would unduly depress, manipulate, or curtail the free market in such grain.

(g) Loans made under this section shall be made subject to such terms and conditions and subject to such security as the Secretary deems appropriate, except that such loans may not be made as nonrecourse loans.

(h) In carrying out the processor grain reserve program under this section, the Secretary may—

(1) provide for the payment to processors of such amounts as the Secretary determines appropriate to cover the cost of storing grain held in the processor grain reserve, except that in no event may the rate of the payment paid under this clause for any period exceed the rate paid by the Secretary under the producer storage program for the same period; and

(2) prescribe conditions under which the Secretary may require processors to repay loans made under this section, plus accrued interest thereon, refund amounts paid to the processors for storage, and require the processors to pay such additional interest and other charges as may be required by regulation in the event any processor fails to abide by the terms and conditions of the loan or any regulation prescribed under this section.

(i) The Secretary shall announce the terms and conditions of the processor grain reserve program as far in advance of making loans as practicable.

(j) The Secretary may use the facilities of the Commodity Credit Corporation to carry out this section.

(k) There are authorized to be appropriated such sums as may be necessary to carry out this section. Any loans made under this section shall be made to such extent and such amounts as provided in appropriation Acts. The authority to make loans under this section shall expire five years after the effective date of this title.

STUDY OF THE POTENTIAL FOR EXPANSION OF UNITED STATES AGRICULTURAL EXPORT MARKETS AND THE USE OF AGRICULTURAL EXPORTS IN OBTAINING NEEDED MATERIALS

Sec. 210.[7] (a) The Secretary of Agriculture, in consultation with the United States Trade Representative and any other appropriate agency of the United States Government as determined by the Secretary, shall perform a study of the potential for expansion of United States agricultural export markets and the use of agricultural exports in obtaining natural resources or other commodities and products needed by the United States. The Secretary shall complete the study and submit to the President and Congress a report on the study before June 30, 1981.

(b) In performing the study, the Secretary shall determine for the next five years—

(1) world food, feed, and fiber needs;

(2) estimated United States and world food, feed, and fiber production capabilities;

(3) potential new or expanded foreign markets for United States agricultural products;

(4) the potential for the development of international agreements for the exchange of United States agricultural products for natural resources, including energy sources, or other commodities and products needed by the United States; and

(5) the steps that the United States must take to (A) increase agricultural export trade, and (B) obtain needed natural resources or other commodities and products in exchange for agricultural products, to the maximum extent feasible.

FOOD BANK DEMONSTRATION PROJECTS

Sec. 211.[8] (a) The Secretary of Agriculture shall carry out demonstration projects to provide agricultural commodities and other foods that might not otherwise be used, or might be more effectively used by organizations assisted under this section, to community food banks for emergency food box distribution to needy individuals and families. Notwithstanding any other provisions of law, the Secretary shall make available for purposes of such special nutrition [9] projects, agricultural commodities and other foods available to the Secretary under section 416 of the Agricultural Act of 1949, section 709 of the Food and Agriculture Act of 1965, and section 32 of the Act of August 24, 1935 (7 U.S.C. 612c). For purposes of distributing agricultural commodities and other foods to community food banks under this section, the Secretary may, in consultation with State agencies, use food distribution systems currently used to distribute agricultural commodities and other foods under the National School Lunch Act and Child Nutrition Act of 1966. The Secretary shall select food banks, in consultation with the Director of the Community Services Administration, for participation in the demonstration projects under this section. Food banks shall be selected for participation so as to ensure adequate geographic distribution of emergency food box programs in at least two but not more than seven Department of Agriculture regions.

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[7] 7 U.S.C. 4003.

[8] 7 U.S.C. 4004.

[9] Sec. 1114(b)(1) of Public Law 97-98 (95 Stat. 1269) substituted the words "special nutrition" in lieu of the word "demonstration".

(b)(1) No food bank may participate in the demonstration projects conducted under this section unless an application therefor is submitted to and approved by the Secretary. Such application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

(2) Each food bank participating in the special nutrition [9] projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and other foods provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary shall determine the quantities and types of agricultural commodities and other foods to be made available under this section. The Secretary may prescribe regulations regarding the designation of eligible participants in the projects and any other regulations necessary to carry out this section.

(d) The Secretary shall submit to Congress a progress report on July 1, 1983, and a final report on January 1, 1984,[10] regarding the demonstration projects carried out under this section. Such report shall include an analysis and evaluation of Federal participation in food bank emergency food programs, the effectiveness of such participation, and the feasibility of continuing such participation. The Secretary shall also include in such report any recommendations regarding improvements in Federal assistance to community food banks, including assistance for administrative expenses and transportation.

(e) The sale of food provided under this section shall be prohibited and any person who receives any remuneration in exchange for food provided under this section shall be subject to a fine of not more than $1,000 or imprisonment for not more than six months, or both.

(f) [11] The Secretary shall minimize paperwork requirements on food banks which participate in the special nutrition projects established under this section and shall otherwise encourage food banks to participate in such projects.

(g) [11] There is authorized to be appropriated such sums as may be necessary to carry out this section.

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[10] Sec. 1114(b) of Public Law 97-98 (95 Stat. 1269) changed the due date of this report (report originally due October 1, 1982).

[11] Sec. 1114(b) of Public Law 97-98 (95 Stat. 1269) redesignated existing subsec. (f) as subsec. (g) and added a new subsec. (f). Such amendment further revised the text of subsec. (g) as redesignated, by striking out an authorization level of $356,000 and substituting the current language.

DEFINITION OF FUEL CONVERSION PRICE

Sec. 212.[12] As used in this title, the phrase "fuel conversion price" means the price for an agricultural commodity determined by the Secretary of Agriculture that will permit gasoline-alcohol mixtures using alcohol produced from the commodity to be competitive in price with unleaded gasoline priced at the point it leaves the refinery, adjusted for differences in octane rating, taking into consideration the energy value of the commodity and other appropriate values designed to represent, on a national average basis, the value of byproducts also recoverable from the commodity; the direct costs and capital recovery costs for a grain alcohol distillery capable of producing forty million gallons of alcohol and recovering byproducts annually; and Federal tax and other Federal incentives applicable to alcohol used for fuel.

EFFECTIVE DATE

Sec. 213. Except as otherwise provided herein, this title shall become effective October 1, 1980, or the date of enactment, whichever is later.

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[12] 7 U.S.C. 4005.

b. Food Security Wheat Reserve Act of 1980 [1]

TITLE III—FOOD SECURITY WHEAT RESERVE ACT OF 1980

SHORT TITLE

Sec. 301. This title may be cited as the "Food Security Wheat Reserve Act of 1980".

FOOD SECURITY WHEAT RESERVE

Sec. 302.[2] (a) To provide for a wheat reserve solely for emergency humanitarian food needs in developing countries, the President shall establish a reserve stock of wheat of up to four million metric tons for use for the purposes specified in subsection (c) of this section.

(b)(1) The reserve stock of wheat under this section shall be established initially by designation for that purpose by the Secretary of Agriculture of wheat owned by the Commodity Credit Corporation.

(2) Subject to the provisions of subsection (i) of this section, stocks of wheat to replenish the reserve may be acquired (A) through purchases from producers or in the market if the Secretary of Agriculture determines that such purchases will not unduly disrupt the market, and (B) by designation by the Secretary of stocks of wheat otherwise acquired by the Commodity Credit Corporation. Any use of funds to acquire wheat through purchases from producers or in

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[1] Sec. 202 of the Temporary Emergency Food Assistance Act of 1983 (title II of Public Law 98-8; 97 Stat. 35), as amended by sec. 2 of Public Law 98-92 (97 Stat. 609), included the following provision concerning utilization of wheat designated under this Act:

"AVAILABILITY OF CCC COMMODITIES

"Sec. 202. (a) Notwithstanding any other provision of law, in order to complement the domestic nutrition programs, make maximum use of the Nation's agricultural abundance, and expand and improve the domestic distribution of price-supported commodities, commodities acquired by the Commodity Credit Corporation that the Secretary of Agriculture (hereinafter referred to as the "Secretary") determines, in his discretion, are in excess of quantities needed to—

"(1) carry out other domestic donation programs,

"(2) meet other domestic obligations (including quantities needed to carry out a payment-in-kind acreage diversion program),

"(3) meet international market development and food aid commitments, and

"(4) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938, the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act, shall be made available by the Secretary, without charge or credit for such commodities, for use by eligible recipient agencies for food assistance.

"(b) Notwithstanding any other provision of law, if wheat stocks acquired by the Commodity Credit Corporation are not available for the purposes of this Act, up to 300,000 metric tons of wheat designated under section 302(b)(1) of the Food Security Wheat Reserve Act of 1980 may be used for the purposes of this Act. Any amount of wheat used from the Food Security Wheat Reserve under this Act shall be replenished by an equivalent quantity of wheat under the provisions of section 302(b) of the Food Security Wheat Reserve Act of 1980 as soon as practicable, but before October 1, 1985."

[2] 7 U.S.C. 1736f-1.

the market to replenish the reserve must be authorized in appropriation Acts.

(c) Notwithstanding any other provision of law, stocks of wheat designated or acquired for the reserve under this section may be released by the President to provide, on a donation or sale basis, emergency food assistance to developing countries at any time that the domestic supply of wheat is so limited that quantities of wheat cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954, except for urgent humanitarian purposes, under the criteria of section 401(a) of that Act. Notwithstanding the provisions of the preceding sentence, up to three hundred thousand metric tons of wheat may be released from the reserve under this section in any fiscal year, without regard to the domestic supply situation, for use under title II of the Agricultural Trade Development and Assistance Act of 1954 in providing urgent humanitarian relief in any developing country suffering a major disaster, as determined by the President, whenever the wheat needed for relief cannot be programmed for such purpose in a timely manner under the normal means of obtaining commodities for food assistance due to circumstances of unanticipated and exceptional need. Wheat released from the reserve may be processed in the United States and shipped to a developing country in the form of flour when conditions in the recipient country require such processing in the United States.

(d) Wheat released from the reserve for the purposes of subsection (c) of this section shall be made available under the Agricultural Trade Development and Assistance Act of 1954 to meet famine or other urgent or extraordinary relief requirements, except that section 401(a) of that Act, with respect to determinations of availability, shall not be applicable thereto.

(e) The Secretary of Agriculture shall provide for the management of stocks of wheat in the reserve as to location and class of wheat needed to meet emergency situations and for the periodic rotation of stocks of wheat in the reserve to avoid spoilage and deterioration of such stocks, using programs authorized by the Agricultural Trade Development and Assistance Act of 1954 and any other provision of law, but any quantity of wheat removed from the reserve for the purposes of this subsection shall be promptly replaced with an equivalent quantity of wheat.

(f) Stocks of wheat in the reserve shall not be considered a part of the total domestic supply (including carryover) for the purposes of subsection (c) of this section or for the purposes of administering the Agricultural Trade Development and Assistance Act of 1954 and shall not be subject to any quantitative limitations on exports that may be imposed under section 7 of the Export Administration Act of 1979.

(g)(1) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposal of wheat for or in the reserve.

(2) Effective beginning October 1, 1981, the Commodity Credit Corporation shall be reimbursed from funds made available for carrying out the Agricultural Trade Development and Assistance Act of 1954 for wheat released from the reserve that is made available under such Act, such reimbursement to be made on the basis of actual costs incurred by the Commodity Credit Corporation with respect to such wheat or the export market price of wheat (as determined by the Secretary) as of the time the wheat is released from the reserve for such purpose, whichever is lower. Such reimbursement may be made from funds appropriated for that purpose in subsequent years.

(h) Any determination by the President or the Secretary of Agriculture under this section shall be final.

(i) [3] The authority to replace stocks of wheat to maintain the reserve under this section shall expire September 30, 1990 after which stocks released from the reserve may not be replenished. Stocks of wheat remaining in the reserve after September 30, 1990, shall be disposed of by release for use in providing for emergency food needs in developing countries as provided in this section.

EFFECTIVE DATE

Sec. 303. Except as otherwise provided herein, this title shall become effective October 1, 1980, or the date of enactment, whichever is later.

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[3] Sec. 1013 of the Food Security Act of 1985 (Public Law 99-198, 99 Stat. 1456), extended the date from 1985 to 1990.

c. Executive Order 12266, January 15, 1981, 46 F.R. 4667

FOOD SECURITY WHEAT RESERVE

By the authority vested in me as President of the United States of America by Section 302(a) of the Food Security Wheat Reserve Act of 1980 (Title III of the Agricultural Act of 1980 (Public Law 96–494)), it is hereby ordered as follows:

1–101. There is hereby established a Food Security Wheat Reserve composed of a reserve stock of wheat, which shall not exceed four million metric tons.

1–102. The Secretary of Agriculture is responsible for designating, in accordance with Section 302 of the Food Security Wheat Reserve Act of 1980, the specific reserve stocks of wheat which shall comprise the Food Security Wheat Reserve.

5. Agriculture and Food Act of 1981

Partial text of Public Law 97-98 [S. 884], 95 Stat. 1213 at 1274, as amended by Public Law 98-412 [H.J. Res. 600], 98 Stat. 1576, approved August 30, 1984; and by Public Law 99-198 [H.R. 2100], 99 Stat. 1354, approved December 23, 1985

AN ACT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Agriculture and Food Act of 1981".

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TITLE XII—AGRICULTURAL EXPORTS AND PUBLIC LAW 480

SUBTITLE A—GENERAL EXPORT PROVISIONS

AGRICULTURAL EXPORT CREDIT REVOLVING FUND

Sec. 1201.[1] * * *

CONGRESSIONAL CONSULTATION ON BILATERAL COMMODITY SUPPLY AGREEMENTS

Sec. 1202.[2] As soon as practicable before the Government of the United States enters into any bilateral international agreement, other than a treaty, involving a commitment on the part of the United States to assure access by a foreign country or instrumentality thereof to United States agricultural commodities or products thereof on a commercial basis, the President is encouraged to notify and consult with the appropriate committees of Congress for the purpose of setting forth in detail the terms of and reasons for negotiating such agreement.

SPECIAL STANDBY EXPORT SUBSIDY PROGRAM

Sec. 1203.[3] (a) In order to discourage foreign countries or instrumentalities thereof from using subsidies to promote the exportation of agricultural commodities, the Secretary of Agriculture shall formulate a special standby export subsidy program for agricultural commodities or products thereof produced in the United States. Such program shall be designed to neutralize the effects of export subsidy programs instituted by foreign countries or instrumentalities to encourage exports of their agricultural commodities to foreign markets other than the United States.

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[1] Sec. 1201 amended sec. 4 of the Food for Peace Act of 1966 (Public Law 89-808) by adding a new subsec. (d) which established the Agricultural Export Credit Revolving Fund. For text, see page 1043.

[2] 7 U.S.C. 1736h.

[3] 7 U.S.C. 1736i.

(b) The Secretary may implement the special standby export subsidy program formulated under subsection (a) of this section only after the President—

(1) makes a determination under section 301 of the Trade Act of 1974 (19 U.S.C. 2411) that action by the United States is appropriate to obtain the elimination of an act, policy, or practice of a foreign country or instrumentality that results in—

(A) substantial displacement of United States exports of agricultural commodities to foreign markets, or

(B) prices for agricultural commodities in foreign markets materially below prices which suppliers of the same agricultural commodities produced in the United States must charge in order to supply such commodities to the same markets;

(2) makes a determination that such act, policy, or practice of the foreign country or instrumentality concerned involves the use of export subsidies to encourage exports of such country's or instrumentality's agricultural commodities to foreign markets other than the United States; and

(3) fails to reach a mutually acceptable resolution through consultation with the foreign country or instrumentality concerned.

(c) The Secretary shall use the Commodity Credit Corporation in carrying out the special standby export subsidy program authorized by this section.

(d) Notwithstanding any other provision of this section, the Secretary shall not implement the special standby export subsidy program for cotton.

(e) The authority provided under this section shall be in addition to, and not in lieu of, any authority granted to the Secretary or the Commodity Credit Corporation by any other provision of law.

AGRICULTURAL EMBARGO PROTECTION

Sec. 1204.[4] Notwithstanding any other provision of law—

(a) If the President or other member of the executive branch of the Federal Government causes the export of any agricultural commodity to any country or area of the world to be suspended, or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 or any other provision of law, and if such suspension or restriction of the export of such agricultural commodity is imposed other than in connection with a suspension or restriction of all exports from the United States to such country or area of the world, and if sales of such agricultural commodity for export from the United States to such country or area of the world during the year preceding the year in which the suspension or restriction is imposed exceeds 3 per centum of the total sales of such commodity for export from the United States to all foreign countries during the year preceding the year in which the suspension or restriction is in effect, the Secretary of Agriculture shall compensate producers of the commodity involved by—

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[4] 7 U.S.C. 1736j.

(1) making payments available to such producers, as provided in subsection (b) of this section;

(2) on the date on which the suspension or restriction is imposed, establishing the loan level for such commodity under the Agricultural Act of 1949, if a loan program is in effect for the commodity, at 100 per centum of the parity price for the commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction; or

(3) undertaking any combination of the measures described in clauses (1) and (2) of this subsection.

(b) If the Secretary makes payments available to producers pursuant to clause (1) of subsection (a) of this section, the amount of such payment shall be determined by—

(1) in the case of an agricultural commodity for which payments are authorized to be made to producers under title I of the Agriculture Act of 1949, multiplying (A) the producer's farm program payment yield or the yield established for the farm for the commodity involved, times (B) the farm program acreage established for the commodity, times (C) the amount by which the average market price per unit of such commodity received by producers during the sixty-day period immediately following the date of the imposition of the suspension or restriction is less than 100 per centum of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction; or

(2) in the case of other agricultural commodities for which price support is authorized for producers under the Agricultural Act of 1949, multiplying the amount by which the average market price per unit of such commodity received by the producers during the sixty-day period immediately following the date of the imposition of the suspension or restriction is less than 100 per centum of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction, by the quantity of such commodity sold by the producer during the period that the suspension or restriction is in effect.

(c) The payments made pursuant to clause (1) of subsection (b) of this section shall be made for each marketing year or part thereof during which the suspension or restriction is in effect and shall be made in equal amounts at ninety day intervals, beginning ninety days after the date of the imposition of the suspension or restriction.

(d)(1) Any loan level established pursuant to clause (2) of subsection (a) of this section shall remain in effect as long as the suspension or restriction described in subsection (a) remains in effect.

(2) Any commodity loan the level of which is increased by the Secretary pursuant to clause (2) of subsection (a) of this

section shall be made available to producers of the commodity without interest.

(e) The Secretary may issue such regulations as are deemed necessary to carry out the provisions of this section.

(f) The Secretary shall use the Commodity Credit Corporation in carrying out the provisions of this section.

(g) The provisions of this section shall become effective with respect to any suspension or restriction of the export of any agricultural commodity, as described in subsection (a) of this section, implemented after the date of enactment of this Act.

DEVELOPMENT OF PLANS TO ALLEVIATE ADVERSE IMPACT OF EXPORT EMBARGOES ON AGRICULTURAL COMMODITIES

Sec. 1205.[5] In order to alleviate, to the maximum extent possible, the adverse impact on farmers, elevator operators, common carriers, and exporters of agricultural commodities when the President or other member of the executive branch of the Federal Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted, the Secretary of Agriculture shall—

(1) develop a comprehensive contingency plan that includes—

(A) an assessment of existing farm programs with a view to determining whether such programs are sufficiently flexible to enable the Secretary to efficiently and effectively offset the adverse impact of such a suspension or restriction on farmers, elevator operators, common carriers, and exporters of commodities provided for under such programs;

(B) an evaluation of the kinds and availability of information needed to determine, on an emergency basis, the extent and severity of the impact of such a suspension or restriction on producers, elevator operators, common carriers, and exporters; and

(C) the development of criteria for determining the extent, if any, to which the impact of such a suspension or restriction should be offset in the case of each of the sectors referred to in clause (1)(B) of this section;

(2) for any suspension or restriction for which compensation is not provided under section 1204 of this title, develop and submit to Congress such recommendations for changes in existing agricultural programs, or for new programs, as the Secretary considers necessary to handle effectively, efficiently, economically, and fairly the impact of any such suspension or restriction;

(3) for any suspension or restriction for which compensation is provided under section 1204 of this title, develop and submit to Congress a plan for implementing and administering section 1204; and

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[5] 7 U.S.C. 1736k.

(4) require the Commodity Credit Corporation, before such corporation purchases any contracts for the purpose of offsetting the impact of a commodity suspension or restriction, to—

(A) prepare an economic justification for each commodity involved in the suspension or restriction to determine if such a purchase is necessary;

(B) estimate any suspension- or restriction-related benefits and detrimental effects to the exporters, and use both estimates in determining the extent, if any, Federal assistance is needed; and

(C) limit its purchases to only those types and grades of commodities suspended or restricted from shipment and make such purchases at prices at or near the current market prices.

CONSULTATION ON GRAIN MARKETING

Sec. 1206.[6] Congress encourages the Secretary of Agriculture, in coordination with other appropriate Federal departments and agencies, to continue to consult with representatives of other major grain exporting nations toward the goal of establishing more orderly marketing of grain and achieving higher farm income for producers of grain.

EXPANSION OF INTERNATIONAL MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Sec. 1207.[7] (a) It is the sense of Congress that, in order to further assist in the development, maintenance, and expansion of international markets for United States agricultural commodities and the products thereof, the Secretary of Agriculture should and is requested to—

(1) use the intermediate credit program authorized under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a) to improve the capability of importing nations to purchase and use United States agricultural commodities and the products thereof on a long-term basis;

(2) ask Congress, at the earliest practicable date, for funds for the agricultural export credit revolving fund in an amount sufficient to meet the demand for short-term credit authorized to be made available under section 4 of the Food for Peace Act of 1966;

(3) establish, insofar as practicable, the maximum number of United States Agricultural Trade Offices in other nations authorized by section 605A of the Act of August 28, 1954 (7 U.S.C. 1765a);

(4) use, to the maximum extent practicable, existing authority to ensure full utilization of the levy-free quota, established during the Tokyo round of the multilateral trade negotiations, for the export sale of United States high quality beef to the European Economic Community;

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[6] 7 U.S.C. 1736l.

[7] 7 U.S.C. 1736m.

(5) expand, to the fullest extent possible, the market development activities of the Foreign Agricultural Service of the Department of Agriculture in developed, developing, market, and nonmarket foreign countries with particular emphasis on (A) continuation of the cooperator programs at the same funding level (adjusted for inflation) as provided during fiscal year 1970; (B) a more active export market development program for value added farm products and processed foods; and (C) the implementation of a full-scale program for forestry products, including commodity information, trade policy, and market development for such products;

(6) ensure that the European Economic Community observes its commitments under the General Agreement on Tariffs and Trade regarding the tariff-free binding on imports of soybeans and corn gluten feed;

(7) consult with the appropriate officials of the Government of Japan with the objective of increasing the export sales of citrus fruits and high quality beef to Japan and to develop mutually acceptable standards for the certification of lettuce and other specialty crops for export to Japan; and

(8) use the authority under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to establish a special standby export subsidy program for United States agricultural commodities and the products thereof, the export of which has been restricted by foreign government subsidies.

(b) It is further declared to be the sense of Congress that any special standby export subsidy program established by the Secretary of Agriculture pursuant to subsection (a)(8) of this section should be (1) consistent with United States international obligations, and (2) designed to neutralize the effects of those foreign agricultural commodity subsidy programs that—

(A) the President has determined, pursuant to section 301 of the Trade Act of 1974 (19 U.S.C. 2411), are acts, policies, or practices described in section 301(a) of such Act that should be eliminated by appropriate action of the United States; and

(B) have, as the result of the appropriate dispute settlement procedures, been found to be in violation of the General Agreement on Tariffs and Trade or the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures), if applicable.

INCREASED USAGE OF PROTEIN BYPRODUCTS DERIVED FROM ALCOHOL FUEL PRODUCTION

Sec. 1208.[8] (a) Congress finds that the use of the protein byproduct resulting from the production of fuel alcohol from agricultural commodities may make it possible for the United States to make available significantly increased amounts of protein to meet the food needs of developing countries without any increase in handling, storage, and transportation facilities. It is the sense of Congress that serious consideration should be given to the potential of this protein byproduct and that, if found to be feasible, this protein byproduct should be included in the Department of Agriculture's commodity export and donation programs.

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[8] 7 U.S.C. 1736n.

(b) Accordingly, the Secretary of Agriculture shall continue to investigate the potential for using the protein byproduct resulting from the production of fuel alcohol from agricultural commodities in meeting the food needs of developing countries through food for peace programs carried out under the Agricultural Trade Development and Assistance Act of 1954 and through the export credit sales program carried out under section 4 of the Food for Peace Act of 1966 and section 5(f) of the Commodity Credit Corporation Charter Act.

(c) The Secretary shall also continue to investigate the potential for using the protein byproduct resulting from the production of fuel alcohol from agricultural commodities in the distribution of food products under the commodity donation program carried out under clause (3) of section 416 of the Agricultural Act of 1949 and under section 210 of the Agricultural Act of 1956.

(d)(1) Not later than twelve months after enactment of this Act, the Secretary shall include the results of the investigations referred to in subsections (b) and (c) of this section in an appropriate report to Congress.

(2) The Secretary shall thereafter provide to Congress each year a description of the efforts being made by the Department to make available, as part of the programs referred to in subsections (b) and (c) of this section, the protein byproduct resulting from the production of fuel alcohol from agricultural commodities. The information for all such programs shall be included in the report submitted pursuant to section 408(a) of the Agricultural Trade Development and Assistance Act of 1954, or in any other appropriate annual report to Congress.

EXEMPTION FOR PROTEIN BYPRODUCTS

Sec. 1209. The Act entitled "An Act authorizing Commodity Credit Corporation to purchase flour and cornmeal and donating same for certain domestic and foreign purposes", approved August 19, 1958 (7 U.S.C. 1431 note), is amended in the proviso by inserting "(except that this limitation does not apply in the case of the protein byproduct resulting from the production of fuel alcohol from agricultural commodities)" immediately after "processed".

Subtitle B—Public Law 480 [9]

SELF-HELP MEASURES TO INCREASE AGRICULTURAL PRODUCTION; VERIFICATION OF SELF-HELP PROVISIONS

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[9] Subtitle B amended Public Law 480. For text, see page 939.

SUBTITLE C—AGRICULTURAL TRADE AND EXPORT POLICY COMMISSION ACT [10]

SHORT TITLE

Sec. 1217.[10] This subtitle may be cited as the "Agricultural Trade and Export Policy Commission Act".

FINDINGS AND DECLARATION OF POLICY

Sec. 1218.[10] (a) Congress finds that—

(1) the economic well-being of the Nation's agricultural industry is directly related to its ability to compete in international markets; and

(2) a thorough examination of agriculture-related trade and export policies, programs, and practices of the United States is needed to ensure that such policies, programs, and practices increase the competitiveness of United States agricultural commodities and products in international markets.

(b) It is hereby declared to be the policy of Congress to expand international trade in United States agricultural commodities and products and to develop, maintain, and expand markets for United States agricultural exports.

ESTABLISHMENT

Sec. 1219.[10] (a) There is established a National Commission on Agricultural Trade and Export Policy to conduct a study of the agriculture-related trade and export policies, programs, and practices of the United States.

(b) In addition to the ex officio congressional members specified in subsection (c) of this section, the Commission shall be composed of twenty-three members appointed or designated by the President and selected as follows:

(1) The President shall select three members from among officers or employees of the Executive branch who shall serve in an ex officio capacity without voting rights; and

(2) The President pro tempore of the Senate and the Speaker of the House of Representatives shall each select then members from among private citizens of the United States to represent industries that are directly affected by agriculture-related trade and export policies, programs, and practices of the United States, including, but not limited to, the following:

(A) producers of major agricultural commodities in the United States;

(B) processors or refiners of United States agricultural commodities;

(C) exporters, transporters, or shippers of United States agricultural commodities and products to foreign countries;

(D) suppliers of production equipment or materials to United States farmers;

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[10] 7 U.S.C. 1691 note. Public Law 98-412 (98 Stat. 1576) added subtitle C (sec. 1217-1223).

(E) providers of financing or credit for domestic and export agricultural purposes; and

(F) organizations representing general farm and rural interests in the United States.

(c) The chairmen and ranking minority members of the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, the House Committee on Foreign Affairs, the Senate Committee on Foreign Relations, the House Committee on Ways and Means, and the Senate Committee on Finance shall serve as ex officio members of the Commission and shall have the same voting rights as the members of the Commission selected and appointed under the provisions of subsection (b)(2) of this section. The chairmen and ranking minority members may designate other members of their respective committees to serve in their stead as members of the Commission.

(d) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) The Commission shall elect a chairman from among the members of the Commission who are selected and appointed under the provisions of subsection (b)(2) of this section.

(f) The Commission shall meet at the call of the chairman or a majority of the Commission.

CONDUCT OF STUDY

Sec. 1220.[10] The Commission shall study the agriculture-related trade and export policies, programs, and practices of the United States and the international and domestic factors affecting such policies, programs, and practices, including the intergovernmental activities of the United States that affect the formulation of policies. In conducting the study, the Commission shall consider, among other things, the following:

(1) the effectiveness of existing agricultural export assistance programs, and the manner in which they can be improved;

(2) new export assistance programs that should be considered, and the conditions under which they can be implemented;

(3) practices of foreign countries that impede the export of United States agricultural commodities and products, and appropriate responses for the United States;

(4) the effectiveness of the trade agreements program of the United States with respect to agriculture-related trade and exports, and the manner in which it can be improved;

(5) international economic trends that affect agricultural exports, and the manner in which the United States can best adjust its policies, programs, and practices to meet changing economic conditions;

(6) potential areas of conflict and compatibility between international agricultural trade and foreign food assistance programs, and the manner in which any conflict can be resolved; and

(7) the relationship between international agricultural trade and foreign economic development and food programs, and the manner in which they can be made more compatible.

RECOMMENDATIONS AND REPORTS

Sec. 1221.[10] (a) On the basis of its study, the Commission shall make findings and develop recommendations for consideration by the President and Congress with respect to the agriculture-related trade and export policies, programs, and practices of the United States, and the manner in which such policies, programs, and practices can be improved to better develop, maintain and expand markets for United States agricultural exports.

(b) The Commission shall submit to the President and Congress—

(1) a report containing its initial findings and recommendations by March 31, 1985,

(2) such additional interim reports on its work as may be requested by the chairman of any of the Committees set forth in section 1219(c) of this subtitle, and

(3) a report containing the final results of its study and its recommendations therefrom by July 1, 1986.

ADMINISTRATION

Sec. 1222.[10] (a) The heads of Executive agencies, the General Accounting Office, the International Trade Commission, and the Congressional Budget Office shall, to the extent permitted by law, provide the Commission such information as it may require in carrying out its duties and functions.

(b) Members of the Commission shall serve without any additional compensation for work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service under sections 5701 through 5707 of title 5, United States Code.

(c) To the extent there are sufficient funds available to the Commission in advance under section 1223 of this subtitle, and subject to such rules as may be adopted by the Commission, the chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

(1) appoint and fix the compensation of a director; and

(2) appoint and fix the compensation of such additional staff personnel as the Commission determines necessary to carry out its duties and functions.

(d) Upon request of the Commission, the Secretary of Agriculture shall furnish the Commission with such personnel and support services as are necessary to assist the Commission in carrying out its duties and functions.

(e) Upon request of the Commission, the heads of other Executive agencies and the General Accounting Office are each authorized to furnish the Commission with such personnel and support services as the head of the agency or office and the chairman of the Commission agree are necessary to assist the Commission in carrying out its duties and functions.

(f) The Commission shall not be required to pay or reimburse any agency or office for personnel and support services provided under this section.

(g) In accordance with section 12 of the Federal Advisory Committee Act, the Secretary of Agriculture shall maintain such financial records as will fully disclose the disposition of any funds that may be at the disposal of the Commission and the nature and extent of its activities, and the Comptroller General of the United States, or any of the Comptroller General's authorized representatives, shall have access to such records for the purpose of audit and examination.

(h) The Commission shall be exempt from section 7(d), section 10(e), section 10(f), and section 14 of the Federal Advisory Committee Act.

(i) The Commission shall be exempt from the requirements of sections 4301 through 4305 of title 5, United States Code.

PUBLIC SUPPORT

Sec. 1223.[10] (a) Following the appointment or designation of the members of the Commission, notwithstanding the provisions of section 1342 of title 31, United States Code, the Secretary of Agriculture may receive, from persons, corporations, foundations, and all other groups and entities within the United States, contributions of money and services to assist the Commission in carrying out its duties and functions. Any money contributed under this section shall be available to the Commission for the payment of salaries, travel expenses, per diem, and other expenses incurred by the Commission under this subtitle. In no event may the contributions from any one person, corporation, foundation, or other group or entity exceed 5 per centum of the Commission's total budget.

(b) If the contributions provided under subsection (a) are insufficient for payment of Commission salaries, travel expenses, per diem, and other expenses incurred by the Commission under this subtitle, the Secretary of Agriculture is authorized to use the funds of the Commodity Credit Corporation for such purposes in an amount not to exceed a total of $1,000,000.

(c) The Secretary of Agriculture shall keep, and shall make available for public inspection during normal business hours, records that fully disclose a complete list of every person, group, and entity making a contribution under this section, the address of the contributor, the amount and type of each such contribution, and the date the contribution was made.

(d) Any amount of money available to the Commission under this section that remains unobligated upon termination of the Commission shall be deposited in the Treasury as miscellaneous receipts.

TERMINATION

Sec. 1224.[10] The Commission shall terminate sixty days after the transmission of its final report to the President and Congress.

6. Omnibus Budget Reconciliation Act of 1982

Partial text of Public Law 97-253 [H.R. 6955], 96 Stat. 763 at 766 and 772, approved September 8, 1982

AN ACT To provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Omnibus Budget Reconciliation Act of 1982".

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

Subtitle A—Dairy Price Support Program

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Subtitle B—Donation of Dairy Products

Sec. 110. * * * [1]

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Subtitle D—Agricultural Export Promotion

Sec. 135. Effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture shall use not less than $175,000,000 nor more than $190,000,000 of funds of the Commodity Credit Corporation for export activities authorized to be carried out by the Secretary or by the Commodity Credit Corporation under the provisions of law in effect on the date of enactment of this section, notwithstanding the fact that the activity may not be included in the budget program of the Corporation. The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation. The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

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[1] Sec. 110 amended sec. 416 of the Agricultural Act of 1949. For text, see page 995.

7. International Carriage of Perishable Foodstuffs Act

Public Law 97–325 [H.R. 6164], 96 Stat. 1603, approved October 15, 1982

AN ACT To authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Carriage of Perishable Foodstuffs Act".

FINDINGS AND PURPOSE

Sec. 2.[1] Congress hereby finds and declares that—

(1) the United States, as a member of the Economic Commission for Europe of the United Nations, participated in development by that Commission of the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage;

(2) the agreement requires that equipment involved in the international carriage of perishable foodstuffs be inspected, tested, and certified to specified standards;

(3) this Act will make it possible for equipment in the United States to be inspected, tested, and certified in accordance with the agreement and the standards specified therein; and

(4) this Act will improve the conditions for the movement of perishable foodstuffs in international carriage in equipment owned or operated by United States firms, which will serve to protect existing trade and promote expansion of trade in perishable foodstuffs, and will improve the sale of United States manufactured equipment for use in international carriage.

DEFINITIONS

Sec. 3.[2] As used in this Act—

(1) The term "agreement" means the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage, and the annexes and the appendices thereto, done at Geneva, September 1, 1970, under the auspices of the Economic Commission for Europe of the United Nations.

(2) The term "contracting party" means any country that is eligible under article 9 of the agreement and that has complied with the terms of such article.

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[1] 7 U.S.C. 4401.

[2] 7 U.S.C. 4402.

(3) The term "equipment" means the special transport equipment that complies with the definitions and standards set forth in annex 1 to the agreement, including, but not limited to, railway cars, trucks, trailers, semitrailers, and intermodal freight containers that are insulated only, or insulated and equipped with a refrigerating, mechanically refrigerating, or heating appliance.

(4) The term "perishable foodstuffs" means quick deep-frozen and frozen food products listed in annex 2 and food products listed in annex 3 to the agreement.

(5) The term "international carriage" means transportation of perishable foodstuffs if such foodstuffs are loaded in equipment or the equipment containing them is loaded onto a rail or road vehicle, in the territory of any country and such foodstuffs are, or the equipment containing them is, unloaded in the territory of another country that is a contracting party, where such transportation is by—

(A) rail,

(B) road,

(C) any combination of rail and road, or

(D) any sea crossing of less than one hundred and fifty kilometers, if preceded or followed by one or more land journeys as referred to in clauses (A), (B), and (C) of this paragraph, and the perishable foodstuffs are shipped in the same equipment used for such land journeys without transloading of such foodstuffs.

In the case of any transportation that involves one or more sea crossings other than as specified in clause (D) of this paragraph, each land journey shall be considered separately.

(6) The term "United States" means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

DUTIES OF THE SECRETARY OF AGRICULTURE

Sec. 4.[3] The Secretary of Agriculture of the United States shall be the competent authority to implement the agreement. To ensure compliance with the standards specified in the agreement, the Secretary of Agriculture may—

(1) designate appropriate organizations to inspect or test equipment, or both;

(2) issue certificates of compliance in accordance with annex 1, appendix 1, paragraph 4 of the agreement;

(3) prescribe such regulations as may be necessary to implement the agreement and administer this Act, including, but not limited to, provision for suspending or denying the designation of any organization to inspect or test equipment and for denying the issuance of certificates of compliance as may be

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[3] 7 U.S.C. 4403.

necessary to ensure compliance with the provisions of this Act and the regulations issued thereunder;

(4) make periodic onsite inspections of facilities and procedures used by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act;

(5) require submission of reports by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act;

(6) require maintenance of records by those seeking certificates of compliance and by organizations designated to test or inspect equipment under this Act, such records to be made available to the Secretary upon request;

(7) inform contracting parties, through the Secretary of State of the United States, of all general measures taken in connection with the implementation of the agreement; and

(8) take such other action as may be considered appropriate to implement the agreement and administer this Act.

DUTIES OF THE SECRETARY OF STATE

Sec. 5.[4] The Secretary of State, with the concurrence of the Secretary of Agriculture, may take such action as may be considered appropriate to assert and protect the rights of the United States under the agreement.

FEES FOR TESTING, INSPECTION OR CERTIFICATION

Sec. 6.[5] (a) Any organization designated by the Secretary of Agriculture to test or inspect equipment may establish reasonable fees to cover the costs of such testing or inspection. Such fees shall be payable directly to the organization by those seeking inspection or testing.

(b) The Secretary of Agriculture may, effective October 1, 1982, fix and cause to be collected reasonable fees to cover, as nearly as practicable, the costs to the Department of Agriculture incurred in connection with the issuance of certificates of compliance as provided under section 4(2) of this Act. All fees collected shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary of Agriculture incident to the issuance of certificates of compliance under this Act.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 7.[6] There are authorized to be appropriated to the Secretary of Agriculture for the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, such sums as are necessary to carry out the provisions of this Act, but not to exceed $100,000 in any fiscal year.

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[4] 7 U.S.C. 4404.

[5] 7 U.S.C. 4405.

[6] 7 U.S.C. 4406.

ASSISTANT SECRETARY OF AGRICULTURE

Sec. 8.[7] (a) There shall be in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, an additional Assistant Secretary of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of Agriculture shall prescribe and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

(b) Section 5315 of title 5 of the United States Code is amended by striking out "(6)" following "Assistant Secretaries of Agriculture" and inserting in lieu thereof "(7)."

(c) Section 5316 of title 5 of the United States Code is amended by striking out "Assistant Secretary of Agriculture for Administration."

(d) Section 3 of Reorganization Plan Numbered 2 of 1953 (67 Stat. 633) is repealed.

(e) This section shall take effect on the date of enactment of this Act except that subsections (c) and (d) of this section shall take effect upon the appointment of a person to fill the successor position created by subsection (a) of this section.

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[7] 7 U.S.C. 2212c.

8. Pesticide Monitoring Improvements

Partial text of Title IV of Public Law 100–418 [H.R. 4848], 102 Stat. 1107 at 1411, approved August 23, 1988

AN ACT To enhance the competitiveness of American industry, and for other purposes.

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SUBTITLE G—PESTICIDE MONITORING IMPROVEMENTS

SEC. 4701.[1] SHORT TITLE.

This subtitle may be cited as the "Pesticide Monitoring Improvements Act of 1988".

SEC. 4702. * * *

SEC. 4703.[2] FOREIGN PESTICIDE INFORMATION.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Health and Human Services shall enter into cooperative agreements with the governments of the countries which are the major sources of food imports into the United States subject to pesticide residue monitoring by the Food and Drug Administration for the purpose of improving the ability of the Food and Drug Administration to assure compliance with the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act with regard to imported food.

(b) INFORMATION ACTIVITIES.—

(1) The cooperative agreements entered into under subsection (a) with governments of foreign countries shall specify the action to be taken by the parties to the agreements to accomplish the purpose described in subsection (a), including the means by which the governments of the foreign countries will provide to the Secretary of Health and Human Services current information identifying each of the pesticides used in the production, transportation, and storage of food products imported from production regions of such countries into the United States.

(2) In the case of a foreign country with which the Secretary is unable to enter into an agreement under subsection (a) or for which the information provided under paragraph (1) is insufficient to assure an effective pesticide monitoring program, the Secretary shall, to the extent practicable, obtain the information described in paragraph (1) with respect to such country from other Federal or international agencies or private sources.

(3) The Secretary of Health and Human Services shall assure that appropriate offices of the Food and Drug Administration

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[1] 21 U.S.C. 1401 note.
[2] 21 U.S.C. 1402.

which are engaged in the monitoring of imported food for pesticide residues receive the information obtained under paragraph (1) or (2).

(4) The Secretary of Health and Human Services shall make available any information obtained under paragraph (1) or (2) to State agencies engaged in the monitoring of imported food for pesticide residues other than information obtained from private sources the disclosure of which to such agencies is restricted.

(c) COORDINATION WITH OTHER AGENCIES.—The Secretary of Health and Human Services shall—

(1) notify in writing the Department of Agriculture, the Environmental Protection Agency, and the Department of State at the initiation of negotiations with a foreign country to develop a cooperative agreement under subsection (a); and

(2) coordinate the activities of the Department of Health and Human Services with the activities of those departments and agencies, as appropriate, during the course of such negotiations.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives on the activities undertaken by the Secretary to implement this section. The report shall be made available to appropriate Federal and State agencies and to interested persons.

SEC. 4704. * * *

C. THE PEACE CORPS

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The Peace Corps was initially established pursuant to Executive Order 10924, March 1, 1961, 26 F.R. 1789, as an agency in the Department of State, under authority of the Mutual Security Act of 1954, as amended. Pursuant to that order, Department of State Delegation of Authority No. 85-11, March 3, 1961, 26 F.R. 2196, and Department of State Redelegation of Authority No. 85-10B, March 4, 1961, 26 F.R. 2196, the Peace Corps was empowered to exercise authority under section 400(a) of the Mutual Security Act of 1954, as amended ("Special Assistance"), and under certain other provisions of that act. Its operations were funded from appropriations available under the Mutual Security Act and Mutual Security Program funds appropriated by the joint resolution making temporary appropriations for fiscal year 1962. The authorities, functions, offices, personnel, property, records, and funds available to the Peace Corps were preserved, pending enactment of the Peace Corps Act, by section 643(d) of the Foreign Assistance Act of 1961, notwithstanding the repeal by that act of much of the Mutual Security Act of 1954, as amended. Section 643(d) was repealed by the Foreign Assistance Act of 1962. Pursuant to Executive Order 11603 of July 1, 1971 (36 F.R. 12675), the Peace Corps was transferred to the agency created by Reorganization Plan No. 1 of 1971 and designated as ACTION. The ACTION Agency was established by law under Title IV of the Domestic Volunteer Service Act of 1973. Executive Order 12137 of May 16, 1979 superseded Executive Order 11603 but continued the policy of the Peace Corps operating as an agency within ACTION. Sec. 601 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113), in amending the Peace Corps Act, removed the Peace Corps from ACTION and established the Peace Corps as an independent agency within the executive branch, effective December 29, 1981. All functions relating to the Peace Corps previously vested in the Director of ACTION were transferred to the Director of the Peace Corps on the day before the effective date.

1. The Peace Corps Act, as amended

Public Law 87-293 [H.R. 7500], 75 Stat. 612, 22 U.S.C. 2501-2523, approved September 22, 1961, as amended by Public Law 87-442 [H.R. 10700], 76 Stat. 62, approved April 27, 1962; Public Law 87-793 [H.R. 7927], 76 Stat. 632, approved October 11, 1962; Public Law 88-200 [H.R. 9009], 77 Stat. 359, approved December 13, 1963; Public Law 88-285 [S. 2455], 78 Stat. 166, approved March 17, 1965; Public Law 88-426 [H.R. 11049], 78 Stat. 400, approved August 14, 1964; Public Law 88-448 [H.R. 7381], 78 Stat. 484, approved August 19, 1964; Public Law 89-134 [S. 2054], 79 Stat. 59, approved August 24, 1965; Public Law 89-554 [H.R. 10104], 80 Stat. 378, approved September 6, 1966; Public Law 89-572 [S. 3418], 80 Stat. 764, approved September 13, 1966; Public Law 90-175 [S. 1031], 81 Stat. 542, approved December 5, 1967; Public Law 90-362 [S. 2914], 82 Stat. 250, approved June 27, 1968; Public Law 91-99 [H.R. 11039], 83 Stat. 166, approved October 29, 1969; Public Law 91-352 [S. 3430], 84 Stat. 464, approved July 24, 1970; Public Law 92-135 [S. 2260], 85 Stat. 376, approved October 8, 1971; Public Law 92-352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 93-49 [H.R. 5293], 87 Stat. 99, approved June 25, 1973; Public Law 93-302 [H.R. 12920], 88 Stat. 191, approved June 1, 1974; Public Law 94-130 [H.R. 6334], 89 Stat. 684, approved November 14, 1975; Public Law 94-274 [S. 2444], 90 Stat. 383, approved April 21, 1976; by Public Law 94-281 [H.R. 12226], 90 Stat. 458, approved May 7, 1976; Public Law 95-102 [S. 1235] 91 Stat. 841, approved August 15, 1977; Public Law 95-331 [H.R. 11877], 92 Stat. 414, approved August 2, 1978; Public Law 96-53 [International Development Cooperation Act of 1979; H.R. 3324], 93 Stat. 359 at 370, approved August 14, 1979; Public Law 96-465 [Foreign Service Act of 1980; H.R. 6790], 94 Stat. 2071 at 2157 and 2160, approved October 17, 1980; Public Law 96-533 [International Security and Development Cooperation Act of 1980; H.R. 6942], 94 Stat. 3131 at 3155, approved December 16, 1980; Public Law 97-113 [International Security and Development Cooperation Act of 1981; S. 1196], 95 Stat. 1519 at 1540, approved December 29, 1981; Public Law 97-387 (S. 2611), 96 Stat. 1947, approved December 23, 1982; Public Law 98-473 [Continuing Appropriations Act, 1985; H.J. Res. 648], 98 Stat. 1837, approved October 12, 1984; by Public Law 99-83 [International Security and Development Cooperation Act of 1985; S. 960], 99 Stat. 190 at 272, approved August 8, 1985, by Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 4151], 100 Stat. 897, approved August 27, 1986; and by Public Law 100-202 [Continuing Appropriations Act for Fiscal Year 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987

AN ACT To provide for a Peace Corps to help the peoples of interested countries and areas in meeting their needs for skilled manpower.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—THE PEACE CORPS

SHORT TITLE

Section 1.[1] This Act may be cited as the "Peace Corps Act".

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[1] 22 U.S.C. 2501 note.

DECLARATION OF PURPOSE

Sec. 2.[2] (a) [3] The Congress of the United States declares that it is the policy of the United States and the purpose of this Act to promote world peace and friendship through a Peace Corps, which shall make available to interested countries and areas men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary, to help the peoples of such countries and areas in meeting their needs for trained manpower, particularly in meeting the basic needs of those living in the poorest areas of such countries,[4] and to help promote a better understanding of the American people on the part of the peoples served and a better understanding of other peoples on the part of the American people.

(b) The Congress declares that it is the policy of the United States and a purpose of the Peace Corps to maintain, to the maximum extent appropriate and consistent with programmatic and fiscal considerations, a volunteer corps of at least 10,000 individuals.[3]

PEACE CORPS AS AN INDEPENDENT AGENCY

Sec. 2A.[5] Effective on the date of the enactment of the International Security and Development Cooperation Act of 1981, the Peace Corps shall be an independent agency within the executive branch and shall not be an agency within the ACTION Agency or any other department or agency of the United States.

AUTHORIZATION

Sec. 3.[6] (a) The President is authorized to carry out programs in furtherance of the purposes of this Act, on such terms and conditions as he may determine.

(b) There are authorized to be appropriated to carry out the purposes of this Act $130,000,000 for the fiscal year 1986 and $137,200,000 for the fiscal year 1987.[7] Unobligated balances of funds made available hereunder are hereby authorized to be continued available for the general purposes for which appropriated and may at any time be consolidated with appropriations hereunder. None of the funds authorized to carry out the purposes of this Act shall be used to carry out the Volunteers to America Program conducted under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), or any similar program involving the service or training of foreign nationals in the United States.

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[2] 22 U.S.C. 2501.

[3] The subsec. designation "(a)" and a new subsec. (b) were added by sec. 1102(a) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 272).

[4] The words beginning with "particularly in meeting * * *" were added by sec. 2 of Public Law 95–331 (92 Stat. 414).

[5] 22 U.S.C. 2501-1. Sec. 2A was added by sec. 601(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1540). For additional information concerning the establishment of the Peace Corps as an independent agency, see text of sec. 601 of Public Law 97-113, page 1133.

[6] 22 U.S.C. 2502.

[7] Congress did not enact an authorization for fiscal year 1989. Instead, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461, 102 Stat. 2268–14) waived the requirement for authorizations and appropriated the following:

"For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $153,500,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions."

The authorization for fiscal years 1986 and 1987 was provided by sec. 1101 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 99 Stat. 190). Sec. 1301 of Public Law 99–399, 100 Stat. 897, increased the 1987 authorization by $7,200,000.

Authorizations in prior years for the Peace Corps included: Fiscal Year 1976—$88,468,000; Fiscal Year 1977T—$27,887,800; Fiscal Year 1977—$81,000,000; Fiscal Year 1978—$86,544,000 (increased from $82,900,000 by Public Law 95–331); Fiscal Year 1979—$112,424,000; Fiscal Year 1980—$105,404,000; Fiscal Year 1981—$118,000,000; Fiscal Year 1982—$105,000,000; Fiscal Year 1983—$105,000,000; Fiscal Year 1984—$116,000,000; Fiscal Year 1985—none enacted; Fiscal Year 1988—none enacted.

(c)[8] In addition to the amount authorized to be appropriated by subsection (b) to carry out the purposes of this Act, there are authorized to be appropriated for increases in salary, pay, retirement, or other employee benefits authorized by law, each fiscal year, such sums as may be necessary.[9]

(d)[10] * * * [Repealed—1981]

(e)[10] * * * [Repealed—1981]

(f)[10] * * * [Repealed—1981]

(d)[11] In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process, the Peace Corps shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economics of developing countries, thus improving their status and assisting the total development effort.

(h)[12] In recognition of the fact that there are over 400,000,000 disabled people in the world, 95 percent of whom are among the poorest of the poor, the Peace Corps shall be administered so as to give particular attention to programs, projects, and activities which tend to integrate disabled people into the national economies of developing countries, thus improving their status and assisting the total development effort.

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[8] Subsec. (c) was added by sec. 2 of Public Law 93–302 (88 Stat. 191) and amended by sec. 2 of Public Law 94–130, sec. 2 of Public Law 94–281, and Public Law 95–102 (91 Stat. 841).

[9] The reference to "each fiscal year" was inserted in lieu of a reference to fiscal year 1981 by sec. 602(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1542). Authorizations for prior years under this subsection included: Fiscal Years 1978—$1,069,000 (increased from $1,000,000 by Public Law 95–331); Fiscal Years 1979, 1980, and 1981—"such sums as may be necessary".

[10] Subsecs. (d), (e), and (f) were repealed by sec. 601(e)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1542). Sec. 601(e)(2) of Public Law 97–113 further stated that such repeals shall not affect "(A) the validity of any action taken before the date of the enactment of this Act [Dec. 29, 1981] under those provisions of law repealed by that amendment, or (B) the liability of any person for any payment described in section 3(f) of the Peace Corps Act as in effect immediately before the date of the enactment of this Act." Subsec. (d), as added by sec. 2 of Public Law 93–302 and amended by sec. 3 of Public Law 94–130, had stipulated that the Director of ACTION should transfer by Dec. 31, 1975, $315,000 from the fiscal year 1976 appropriations to the readjustment allowance, ACTION, account at the Treasury Department in order to rectify the imbalance in the Peace Corps readjustment allowance account for the period Mar. 1, 1961, to Feb. 28, 1973. Subsec. (e), as added by sec. 2 of Public Law 93–302 (88 Stat. 191), had authorized the Director of ACTION to waive claims resulting from erroneous payments of readjustment allowances to Peace Corps volunteers who terminated their service between Mar. 1, 1961, and Feb. 28, 1973. Subsec. (f), also added by sec. 2 of Public Law 93–302, had relieved disbursing and certifying officers of the Peace Corps and ACTION from liability for improper or incorrect payment of readjustment allowances made to Volunteers between Mar. 1, 1961, and Feb. 28, 1973, except in the case of fraud.

[11] Subsec. (d) as originally added as subsec. (g) by sec. 3(3) of Public Law 95–331 (92 Stat. 414) was redesignated as subsec. (d) by sec. 601(e)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1542).

[12] Subsec. (h) was added by sec. 603 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1542).

DIRECTOR OF THE PEACE CORPS AND DELEGATION OF FUNCTIONS

Sec. 4.[13] (a) The President may appoint, by and with the advice and consent of the Senate, a Director of the Peace Corps [14] and a Deputy Director of the Peace Corps.[14]

(b) [15] The President may exercise any functions vested in him by this Act through the Director of the Peace Corps. The Director of the Peace Corps may promulgate such rules and regulations as he may deem necessary or appropriate to carry out such functions, and may delegate to any of his subordinates authority to perform any of such functions.

(c)(1) Nothing contained in this Act shall be construed to infringe upon the powers or functions of the Secretary of State.

(2) The President shall prescribe appropriate procedures to assure coordination of Peace Corps activities with other activities of the United States Government in each country, under the leadership of the chief of the United States diplomatic mission.

(3) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of the programs authorized by this Act, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

(4) [16] The Director of the Peace Corps may prescribe such regulations as may be necessary to assure that no individual performing service for the Peace Corps under any authority contained in this Act shall engage in any activity determined by the Director to be detrimental to the best interest of the United States.

(d) Except with the approval of the Secretary of State, the Peace Corps shall not be assigned to perform services which could more usefully be performed by other available agencies of the United States Government in the country concerned.

PEACE CORPS VOLUNTEERS

Sec. 5.[17] (a) The President may enroll in the Peace Corps for service abroad qualified citizens and nationals of the United States (referred to in this Act as "volunteers"). The terms and conditions of the enrollment, training, compensation, hours of work, benefits, leave, termination, and all other terms and conditions of the service of volunteers shall be exclusively those set forth in this Act and those consistent therewith which the President may prescribe; and, except as provided in this Act, volunteers shall not be deemed officers or employees or otherwise in the service or employment of, or holding office under, the United States for any purpose. In carrying out this subsection there shall be no discrimination against any person on account of race, sex, creed, or color.[18]

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[13] 22 U.S.C. 2503.

[14] The words ", whose compensation shall be fixed by the President at a rate not in excess of $20,000 per annum," and ", whose compensation shall be fixed by the President at a rate not in excess of $19,500 per annum", which appeared at these points, respectively, were repealed by sec. 305(27) of the Government Employees Salary Reform Act of 1964 (Public Law 88-426).

[15] The references in subsec. (b) to the Director of the Peace Corps were substituted in lieu of references to the head of any agency or any officer of the United States Government by sec. 601(d)(1) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1541).

[16] Par. (4) was added by sec. 2 of Public Law 91-352 (84 Stat. 426). The function prescribed in this paragraph was transferred to the President by sec. 2(b) of Reorganization Plan No. 1 of 1971.

[17] 22 U.S.C. 2504. Sec. 4 of Public Law 94-130 added "sex" to the bases for nondiscrimination.

(b) Volunteers shall be provided with such living, travel, and leave allowances, and such housing, transportation, supplies, equipment, subsistence, and clothing as the President may determine to be necessary for their maintenance and to insure their health and their capacity to serve effectively. Supplies or equipment provided volunteers to insure their capacity to serve effectively may be transferred to the government or to other entities of the country or area with which they have been serving, when no longer necessary for such purpose, and when such transfers would further the purposes of this Act.[19] Transportation and travel allowances may also be provided in such circumstances as the President may determine, or applicants for enrollment to or from places of training and places of enrollment, and for former volunteers from places of termination to their homes in the United States.

(c)[20] Volunteers shall be entitled to receive a readjustment allowance at a rate not less than $125[21] for each month of satisfactory service as determined by the President.[22] The readjustment allowance of each volunteer shall be payable on his return to the United States: *Provided, however,* That, under such circumstances as the President may determine, the accrued readjustment allowance, or any part thereof, may be paid to the volunteer, members of his family or others, during the period of his service, or prior to his return to the United States. In the event of the volunteer's death during the period of his service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582(b) of title 5, United States Code. For purposes of the Internal Revenue Code of 1954 (26 U.S.C.), a volunteer shall be deemed to be paid and to receive each amount of a readjustment allowance to which he is entitled after December 31, 1964, when such amount is transferred from funds made available under this Act to the fund from which such readjustment allowance is payable.

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[18] This last sentence of sec. 5(a) was amended by sec. 1105(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 276), which removed the prohibition that "no political request shall be required to be taken into consideration".

[19] This sentence was added by sec. 2(a) of Public Law 88–200.

[20] Sec. 2(b) of Public Law 88–200 substituted this language, except for the final sentence, for former subsec. (c), which read as follows:

"(c) Volunteers shall be entitled to receive termination payments at a rate not to exceed $75 for each month of satisfactory service as determined by the President. The termination payment of each volunteer shall be payable at the termination of his service, or may be paid during the course of his service to the volunteer, to members of his family or to others, under such circumstances as the President may determine. In the event of the volunteer's death during the period of his service, the amount of any unpaid termination payment shall be paid in accordance with the provisions of section 61f of title 5 of the United States Code."

The final sentence was added by sec. 2(a) of Public Law 89–134.

[21] The words "not less than $125" were inserted in lieu of the words "not to exceed $125" by sec. 606 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1543).

[22] A phrase, which had been added by sec. 2(b) of Public Law 91–352 and had previously appeared at this point, was struck by sec. 4(1) of Public Law 95–331 (92 Stat. 414). It formerly read as follows: "except that, in the cases of volunteers who have one or more minor children at the time of their entering a period of preenrollment training, one parent shall be entitled to receive a readjustment allowance at a rate not to exceed $125 for each month of satisfactory service as determined by the President."

(d) [23] [Repealed by Public Law 89-554 (80 Stat. 378 at 661; 22 U.S.C. 2509).]

(e) [24] Volunteers shall receive such health care during their service, applicants for enrollment shall receive such health examinations preparatory to their service, applicants for enrollment who have accepted an invitation to begin a period of training under section 8(a) of this Act shall receive such immunization and dental care preparatory to their service, and former volunteers shall receive such health examinations within six months after termination of their service, as the President may deem necessary or appropriate. Subject to such conditions as the President may prescribe, such health care may be provided in any facility of any agency of the United States Government, and in such cases the appropriation for maintaining and operating such facility shall be reimbursed from appropriations available under this Act.

(f) [25] (1) Any period of satisfactory service of a volunteer under this Act shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

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[23] Public Law 89-554 repealed subsec. (d), which related to Federal Employees' Compensation Act coverage and enacted a substantially identical provision, 5 U.S.C. 8142, which read as follows:

"(a) For the purpose of this section, 'volunteer' means—

"(1) a volunteer enrolled in the Peace Corps under section 2504 of title 22;

"(2) a volunteer leader enrolled in the Peace Corps under section 2505 of title 22; and

"(3) an applicant for enrollment as a volunteer or volunteer leader during a period of training under section 2507(a) of title 22 before enrollment.

"(b) Subject to the provisions of this section, this subchapter applies to a volunteer, except that entitlement to disability compensation payments does not commence until the day after the date of termination of his services as a volunteer.

"(c) For the purposes of this subchapter—

"(1) a volunteer is deemed receiving monthly pay at the minimum rate for GS-7;

"(2) a volunteer leader referred to by section 2505 of title 22 is deemed receiving monthly pay at the minimum rate for GS-11;

"(3) an injury suffered by a volunteer when he is outside the several States, territories, and possessions of the United States, and the District of Columbia is deemed proximately caused by his employment unless the injury or disease is—

"(A) caused by willful misconduct of the volunteer;

"(B) caused by the volunteer's intention to bring about the injury or death of himself or of another; or

"(C) proximately caused by the intoxication of the injured volunteer; and

"(4) the period of service of an individual as a volunteer includes--

"(A) any period of training, under section 2507(a) of title 22 before enrollment as a volunteer; and

"(B) the period between enrollment as a volunteer and the termination of service as a volunteer by the President or by death or resignation."

[24] Sec. 2(b) of Public Law 89-134 substantially amended this subsection which previously read as follows:

"(e) Volunteers shall receive such health care during their service and such health examinations and immunization preparatory to their service, as the President may deem necessary or appropriate. Subject to such conditions as the President may prescribe, such health care, examinations, and immunizations may be provided for volunteers in any facility of any agency of the United States Government, and in such cases the appropriation for maintaining and operating such facility shall be reimbursed from appropriations available under this Act."

[25] Public Law 89-554 repealed subsec. (f) insofar as it applied to the Civil Service Retirement Act, as amended, and enacted a provision, 5 U.S.C. 8332(b), which provides the same benefit. 5 U.S.C. 8332(b), in pertinent part reads as follows:

"(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based in the civilian service in excess of 3 calendar days. The service includes—

"(5) a period of satisfactory service of a volunteer or volunteer leader under chapter 34 of title 22 only if he later becomes subject to this subchapter. * * * For the purpose of paragraph (5) of this subsection—

"(A) a volunteer and a volunteer leader are deemed receiving pay during their service at the respective rates of readjustment allowances payable under sections 2504(c) and 2505(1) of title 22; and

"(B) the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and the termination of that service by the President or by death or resignation."

(A) for the purposes of section 816(a) of the Foreign Service Act of 1980 [26] and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(B) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1980, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided,* That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(2) For the purposes of paragraph (1)(A) of this subsection, volunteers and volunteer leaders shall be deemed to be receiving compensation during their service at the respective rates of readjustment allowances [27] payable under sections 5(c) and (6)(1) of this Act.

(g) The President may detail or assign volunteers or otherwise make them available to any entity referred to in paragraph (1) of section 10(a) on such terms and conditions as he may determine: *Provided,* That not to exceed two hundred volunteers may be assigned to carry out secretarial or clerical duties on the staffs of the Peace Corps representatives abroad: [28] *Provided, however,* That any volunteer so detailed or assigned shall continue to be entitled to the allowances, benefits and privileges of volunteers authorized under or pursuant to this Act.

(h) [29] Volunteers shall be deemed employees of the United States Government for the purposes of the Federal Tort Claims Act [30] and any other Federal tort liability statute,[31] the Federal Voting Assistance Act of 1955 (5 U.S.C. 2171 et seq.),[32] the Act of June 4, 1954, chapter 264, section 4 (5 U.S.C. 73b–75), the Act of December 23, 1944, chapter 716, section 1, as amended (31 U.S.C. 492a),[33] section 5584 of title 5, United States Code (and readjustment allowances paid under this Act shall be considered as pay for purposes of such section,[34] and section 1 of the Act of June 4, 1920 (41 Stat. 750), as amended (22 U.S.C. 214).[35]

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[26] This reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2202(a) of Public Law 96–465 (94 Stat. 2157).

[27] Sec. 2(c) of Public Law 88–200 substituted the words "readjustment allowances" for the words "termination payments".

[28] The first proviso was added by sec. 2(d) of Public Law 88–200. Sec. 2(e) of Public Law 89–134 substituted "two" for "one" and struck out "in the aggregate" which had followed "volunteers" in this proviso as originally enacted.

[29] Public Law 89–554 repealed subsec. (h) insofar as it applied to the Act of June 4, 1954, ch. 264, sec. 4, which relates to the payment or reimbursement of general average contribution from appropriation chargeable to certain types of transportation. Public Law 89–554 also enacted a provision which provides the same benefit (5 U.S.C. 5732) which read as follows: "Under such regulations as the President may prescribe, appropriations chargeable for the transportation of baggage and household goods and personal effects of employees of the United States, volunteers as defined by section 8142(a) of this title, and members of the uniformed services are available for the payment or reimbursement of general average contributions required. Appropriations are not available for the payment or reimbursement of general average contributions—

"(1) required in connection with and applicable to quantities of baggage and household goods and personal effects in excess of quantities authorized by statute or regulation to be transported;

"(2) when the individual concerned is allowed under statute of regulation a commutation instead of actual transportation expenses; or

"(3) when the individual concerned selected the means of shipment."

[30] 28 U.S.C. 2671–2680 and notes.

[31] Sec. 2(e) of Public Law 88–200 deleted the words "and for the purposes of" at this point and substituted "the Federal Voting Assistance Act of 1955 (5 U.S.C. 2171 et seq.), the Act of June 4, 1954, chapter 264, section 4 (5 U.S.C. 73b–5); and".

(i) The service of a volunteer may be terminated at any time at the pleasure of the President.

(j) Upon enrollment in the Peace Corps, every volunteer shall take the oath prescribed for persons appointed to any office of honor or profit by section 1757 of the Revised Statutes of the United States, as amended (5 U.S.C. 16) [36] and shall swear (or affirm) that he does not advocate the overthrow of our constitutional form of government in the United States, and that he is not a member of an organization that advocates the overthrow of our constitutional form of government in the United States, knowing that such organization so advocates.

(k) [37] In order to assure that the skills and experience which former volunteers have derived from their training and their service abroad are best utilized in the national interest, the President may, in cooperation with agencies of the United States, private employers, educational institutions and other entities of the United States, undertake programs under which volunteers would be counseled with respect to opportunities for further education and employment.

(l) [38] Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses incident to the defense of volunteers may be paid in foreign judicial or administrative proceedings to which volunteers have been made parties.

(m) [39] The minor children of a volunteer living with the volunteer may receive—

(1) such living, travel, education, and leave allowances, such housing, transportation, subsistence, and essential special items of clothing as the President may determine;

(2) such health care, including health care following the volunteer's service for illness or injury incurred during such service, and health and accident insurance, as the President may determine and upon such terms as he may determine, including health care in any facility referred to in subsection (e) of this section, subject to such conditions as the President may prescribe and subject to reimbursement of appropriations as provided in such subsection (e);

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[32] Recodified as 50 U.S.C. 1451 et seq.

[33] The reference to the Act of Dec. 23, 1944, was added by sec. 2(d) of Public Law 89–134.

[34] The reference to sec. 5584 of title 5, United States Code, was added by sec. 2 of Public Law 91–99.

[35] The final two sentences of subsec. (h), as added by sec. 4(2) of Public Law 95–331 (92 Stat. 414) and amended by sec. 2202(a)(2) of Public Law 96–465 (94 Stat. 2157), were deleted by sec. 604(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1543). These sentences concerned malpractice protection for Peace Corps volunteers and can now be found at sec. 10(j) of this Act.

[36] Recodified as 5 U.S.C. 3331.

[37] Added by sec. 2(f) of Public Law 88–200 (77 Stat. 360).

[38] Added by sec. 2(a) of Public Law 89–572 (80 Stat. 765).

[39] Added by sec. 3(b) of Public Law 91–352 (84 Stat. 464).

(3) such orientation, language, and other training necessary to accomplish the purposes of this Act as the President may determine; and

(4) the benefits of subsection (1) of this section on the same basis as volunteers.

(n) [39] The costs of packing and unpacking, transportation to and from a place of storage, and storing the furniture and household and personal effects of a volunteer who has one or more minor children at the time of his entering a period of pre-enrollment training may be paid from the date of his departure from his place of residence to enter training until no later than three months after termination of his service.

PEACE CORPS VOLUNTEER LEADERS

Sec. 6.[40] The President may enroll in the Peace Corps qualified citizens or nationals of the United States whose services are required for supervisory or other special duties or responsibilities in connection with programs under this Act (referred to in this Act as "volunteer leaders"). The ratio of the total number of volunteer leaders to the total number of volunteers in service at any one time shall not exceed one to twenty-five. Except as otherwise provided in this Act, all of the provisions of this Act applicable to volunteers shall be applicable to volunteer leaders, and the term "volunteers" shall include "volunteer leaders": *Provided, however,* That—

(1) volunteer leaders shall be entitled to receive a readjustment allowance at a rate not less than $125 [41] for each month of satisfactory service as determined by the President; [42]

(2) spouses and minor children of volunteer leaders may receive such living, travel, and leave allowances, and such housing, transportation, subsistence, and essential special items of clothing, as the President may determine, but authority contained in this paragraph shall be exercised only under exceptional circumstances;

(3) spouses and minor children of volunteer leaders accompanying them may receive such health care as the President may determine and upon such terms as he may determine, including health care in any facility referred to in section 5(e) of this Act, subject to such conditions as the President may prescribe in section 5(e); [43] and

(4) spouses and minor children of volunteer leaders accompanying them may receive such orientation, language, and other training necessary to accomplish the purposes of this Act as the President may determine.

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[40] 22 U.S.C. 2505.

[41] Sec. 3 of Public Law 88-200 substituted the words "a readjustment allowance" for the words "termination payments."

Public Law 97-387 (96 Stat. 1947) substituted the words "not less than" in lieu of the words "not to exceed." This amendment became effective as of Dec. 29, 1981.

[42] Sec. 3 of Public Law 94-281 (90 Stat. 458) provided that the fiscal year 1977 appropriation to carry out the purposes of the Peace Corps Act, $10,100,000 shall be available only for payment of the readjustment allowances authorized by secs. 5(c) and 6(1).

[43] Public Law 89-134 provided health care for children born during the Volunteer's service. Public Law 91-352 struck out this provision.

PEACE CORPS EMPLOYEES

Sec. 7.[44] (a)(1) For the purpose of performing functions under this Act outside the United States, the President may employ or assign persons, or authorize the employment or assignment of officers or employees of agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates established under section 402 or 403 of the Foreign Service Act of 1980,[45] together with allowances and benefits thereunder; and persons so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of the employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act [46] for persons appointed to the Foreign Service Reserve.

(2) [47] The President may utilize such authority contained in the Foreign Service Act of 1980 relating to members of the Foreign Service and other United States Government officers and employees as the President deems necessary to carry out functions under this Act, except that—

(A) no Foreign Service appointment or assignment under this paragraph shall be for a period of more than seven and one-half years, subject to paragraph (5) and except as provided in paragraph (6) [48] and

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[44] 22 U.S.C. 2506. Sec. 4(a) of Public Law 89–134 struck out the former subsecs. (a) and (b) of this section which read as follows:

"(a) The President may employ such persons, not to exceed 275 persons permanently employed in the United States at any one time in fiscal year 1962, as the President deems necessary to carry out the provisions and purposes of this Act. Except as otherwise provided in this Act, such persons (hereafter sometimes referred to as "employees") shall be employed in accordance with and shall be subject to the laws applicable to personnel employed by the United States Government.

"(b) Of the persons employed in the United States in activities authorized by this Act, not to exceed thirty may be compensated without regard to the provisions of the Classification Act of 1949, as amended, of whom not to exceed twenty may be compensated at rates higher than those provided for grade fifteen of the general schedule established by the Classification Act of 1949, as amended, but not in excess of the highest rate of grade 18 of such general schedule. Such positions shall be in addition to those authorized by section 4(a) of this Act to be filled by Presidential appointment, and in addition to the number authorized by section 505 of the Classification Act of 1949, as amended."

Under the terms of sec. 5 of Public Law 89–134, the independent implementing provisions of that act, persons holding career or career-conditional appointments under the repealed authorities immediately prior to the effective date of sec. 4 of Public Law 89–134 (Oct. 10, 1965) may continue employment under such authority for 3 years. Those whose career or career-conditional appointments were at grade 8 or below of the General Schedule could receive appointment for the duration of operations under the Peace Corps Act.

Sec. 4(b) (1) and (2) of Public Law 89–134 reorganized this subsection by changing its designation from "(c)" to "(a)(1)", and striking "—(1)" after the words "the President may."

[45] The words to this point beginning with "which are not authorized * * *" were substituted by sec. 2202(b)(1)(A) of Public Law 96–465 (94 Stat. 2157) in lieu of the following: "who shall receive compensation at any of the rates provided for persons appointed to the Foreign Service Reserve and Staff under the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)."

[46] The reference to sec. 310 was substituted in lieu of a reference to sec. 528 by sec. 2202(b)(1)(B) of Public Law 96–465 (94 Stat. 2157).

[47] Par. (2), as amended by Public Law 89–134, was amended and restated by sec. 2202(b)(1) of Public Law 96–465 (94 Stat. 2157).

[48] The words to this point beginning with ", subject to paragraph * * *" were substituted in lieu of the following: "unless the Director of the Peace Corps, under special circumstances, personally approved an extension of not more than one year on an individual basis" by sec. 1103(a)(1)(A) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 272). Such sec. 1103(a)(1)(A) also increased the period of time of appointments from 5 years to 7.5 years. See sec. 1103(b) of Public Law 99–83 (page 387) concerning a report from the Peace Corps Director on the criteria for making appointments for periods of more than 5 years.

(B) no individual whose Foreign Service appointment or assignment under this paragraph has been terminated shall be reappointed or reassigned under this paragraph before the expiration of a period of time equal to the preceding tour of duty of that individual.

Subparagraphs (A) and (B) do not apply with respect to foreign national employees.[49] Such provisions of the Foreign Service Act of 1980 (other than the provision of section 309)[50] as the President deems appropriate shall apply to individuals appointed or assigned under this paragraph, including in all cases, the provisions of section 310 of that Act, except that (i) the President may by regulation make exceptions to the application of section 310 in cases in which the period of the appointment or assignment exceeds thirty months, (ii) members of the Foreign Service appointed or assigned pursuant to this paragraph shall receive within-class salary increases, in accordance with such regulations as the President may prescribe, and (iii) under such regulations as the President may prescribe, individuals who are to perform duties of a more routine nature than are generally performed by members of the Foreign Service assigned to class 9 in the Foreign Service Schedule may be appointed to an unenumerated class ranking below class 9 in the Foreign Service Schedule and be paid basic compensation at rates lower than those for class 9, except that such rates may be no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(3)[51] The President may specify what additional allowance authorized by section 5941 of title 5, United States Code, and which of the allowances and differentials authorized by sections 5923 through 5925 of such title 5 may be granted to any person employed, appointed, or assigned under this subsection and may determine the rates thereof not to exceed the rates otherwise granted to employees under the sections of title 5, United States Code, referred to in this paragraph.

(4)[52] An individual who has received an appointment or assignment in the Foreign Service under this subsection may, not later than September 30, 1982, or three years after separation from such appointment or assignment, whichever is later, be appointed to a position in any United States department, agency, or establishment—

(A) in the competitive service under title 5, United States Code, without competitive examination and in accordance with such regulations and conditions consistent with this subsection as may be prescribed by the Director of the Office of Personnel Management, or

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[49] This sentence was added by sec. 541(a) of the Foreign Assistance Appropriations Act, 1985 (included in sec. 101 of the Continuing Appropriations Act, 1985, Public Law 98-473, 98 Stat. 1903). This amendment had been included as sec. 703 of H.R. 5119, the International Security and Development Cooperation Act of 1984, as passed by the House on May 10, 1984. Sec. 541(a) enacted sec. 703 of H.R. 5119.

[50] This parenthetical phrase was added by sec. 1103(a)(1)(B) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 272.)

[51] As amended and restated by sec. 5 of Public Law 91-352 (84 Stat. 465). Previously amended by sec. 4(b)(4) of Public Law 89-134 (79 Stat. 550).

[52] Paragraph (4) was added by sec. 302 of the International Development Cooperation Act of 1979 (Public Law 96-53, 93 Stat. 371). The text of par. (4) up to the words "or three years" were inserted by sec. 2202(b)(2) of Public Law 96-465 (94 Stat. 2158). Former text of par. (4) had contained temporary language pending the enactment of Foreign Service personnel reform legislation which was included in Public Law 96-465.

(B) in an established merit system in the excepted service, if such individual [53] (i) served satisfactorily under the authority of this subsection, as certified by the President, for not less than thirty-six months on a continuous basis without a break in service of more than three days,[54] and (ii) is qualified for the position in question.

(5) [55] Except as provided in paragraph (6), the Director of the Peace Corps may make appointments or assignments of United States citizens under paragraph (2) for periods of more than five years only in the case of individuals whose performance as employees of the Peace Corps has been exceptional and only in order to achieve one or more of the following purposes:

(A) To permit individuals who have served at least two and one-half years of such an appointment or assignment abroad to serve in the United States thereafter.

(B) To permit individuals who have served at least two and one-half years of such an appointment or assignment in the United States to serve abroad thereafter.

(C) To permit individuals who have served at least two and one-half years of such an appointment or assignment in a recruitment, selection, or training activity to be reassigned to an activity other than the one in which they have most recently so served.

(D) To promote the continuity of functions in administering the Peace Corps.

At no time may the number of appointments or assignments of United States citizens in effect under paragraph (2) for periods in excess of five years exceed fifteen percent of the total of all appointments and assignments of United States citizens then in effect under paragraph (2).

(6) [55] Notwithstanding the limitation set forth in paragraph (2)(A) on the length of an appointment or assignment under paragraph (2) and notwithstanding the limitations set forth in paragraph (5) on the circumstances under such an appointment or assignment may exceed five years, the Director of the Peace Corps, under special circumstances, may personally approve an extension of an appointment or assignment under paragraph (2) for not more than one year on an individual basis.

(b) [56] * * * [Repealed—1981]

(c) [57] In each country or area in which volunteers serve abroad, the President may appoint an employee or a volunteer as a Peace

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[53] The word "individual" was substituted in lieu of "person" by sec. 2202(b)(2)(B) of Public Law 96–465 (94 Stat. 2158).

[54] The words "continuous basis without a break in service of more than three days," were substituted in lieu of the words "substantially continuous basis" by sec. 2202(b)(2)(C) of Public Law 96–465 (94 Stat. 2158).

[55] Sec. 1103(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83, 99 Stat. 272) added pars. (5) and (6).

[56] Subsec. (b), as amended by Public Law 89–134, was repealed by sec. 2205(9) of the Foreign Service Act of 1980 (Public Law 96–465, 94 Stat. 2160). Subsec. (b) had authorized the President to prescribe by regulation standards for maintaining adequate performance levels for persons performing functions under this Act outside of the United States.

[57] Sec. 4(d) of Public Law 89–134 amended this subsection by substituting "(c)" for "(e)" and "(a)" for "(c)".

Corps representative to have direction of other employees of the Peace Corps abroad and to oversee the activities carried on under this Act in such country or area. Unless a representative is a volunteer, the compensation, allowances and benefits, and other terms and conditions of service of each such representative, shall be the same as those of a person appointed or assigned pursuant to paragraph (1) or (2) of subsection (a) of this section, except that any such representative may, notwithstanding any provision of law, be removed by the President in his discretion.

VOLUNTEER TRAINING

Sec. 8.[58] (a) The President shall make provision for such training as he deems appropriate for each applicant for enrollment as a volunteer and each enrolled volunteer. All of the provisions of this Act applicable respectively to volunteers and volunteer leaders shall be applicable to applicants for enrollment as such during any period of training occurring prior to enrollment, and the respective terms "volunteers" and "volunteer leaders" shall include such applicants during any such period of training.

(b) The President may also make provision, on the basis of advances of funds or reimbursement to the United States, for training for citizens of the United States, other than those referred to in subsection (a) of this section, who have been selected for service abroad in programs not carried out under authority of this Act which are similar to those authorized by this Act. The provisions of section 9 of this Act shall apply, on a similar advance of funds or a reimbursement basis, with respect to persons while within the United States for training under authority of this subsection. Advances or reimbursements received under this subsection may be credited to the current applicable appropriation, fund, or account and shall be available for the purposes for which such appropriation, fund, or account is authorized to be used.

(c) Training hereinabove provided for, shall include instruction in the philosophy, strategy, tactics, and menace of communism.

PARTICIPATION OF FOREIGN NATIONALS

Sec. 9.[59] In order to provide for assistance by foreign nationals in the training of volunteers, and to permit effective implementation of Peace Corps projects with due regard for the desirability of cost-sharing arrangements, where appropriate, the President may make provision for transportation, housing, subsistence, or per diem in lieu thereof, and health care or health and accident insurance for foreign nationals engaged in activities authorized by this Act while they are away from their homes, without regard to the provisions of any other law: *Provided, however,* That per diem in lieu of subsistence furnished to such persons shall not be at rates higher than those prescribed by the Secretary of State pursuant to section 12 of Public Law 84-855[60] (70 Stat. 890). Such persons, and persons coming to the United States under contract pursuant to section 10(a)(5), may be admitted to the United States, if otherwise qualified, as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General. A person admitted under this section who fails to maintain the status under which he was admitted or who fails to depart from the United States at the expiration of the time for which he was admitted, or who engages in activities of a political nature detrimental to the interests of the United States, or in activities not consistent with the security of the United States, shall, upon the warrant of the Attorney General, be taken into custody and promptly deported pursuant to sections 241, 242, and 243 of the Immigration and Nationality Act.[61] Deportation proceedings under this section shall be summary and the findings of the Attorney General as to matters of fact shall be conclusive.

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[58] 22 U.S.C. 2507.
[59] 22 U.S.C. 2508.
[60] 22 U.S.C. 2679.

GENERAL POWERS AND AUTHORITIES

Sec. 10.[62] (a) In the furtherance of the purposes of this Act, the President may—

(1) enter into, perform, and modify contracts and agreements and otherwise cooperate with any agency of the United States Government or of any State or any subdivision thereof, other governments and departments and agencies thereof, and educational institutions, voluntary agencies, farm organizations, labor unions, and other organizations, individuals and firms;

(2) assign volunteers in special cases to temporary duty with international organizations and agencies when the Secretary of State determines that such assignment would serve the purposes of this Act; [63]

(3) [64] assign volunteers to duty or otherwise make them available to any entity referred to in paragraph (1), in order to assist such organizations and agencies in providing development or other relief assistance to displaced persons and refugees in any country, if the government of the country agrees to such assignment;

(4) [64] accept in the name of the Peace Corps and employ or transfer in furtherance of the purposes of this Act (A) voluntary services notwithstanding the provisions of 31 U.S.C. 665(b), and (B) any money or property (real, personal or mixed, tangible or intangible) received by gift, devise, bequest, or otherwise; [65] and

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[61] 8 U.S.C. 1251, 1253.

[62] 22 U.S.C. 2509.

[63] A proviso clause, which had limited the number of volunteers or volunteer leaders assigned to international organizations to 125, was struck by sec. 5(a)(1) of Public Law 95–331 (92 Stat. 414).

[64] Sec. 5(c) of Public Law 95–331 (92 Stat. 415) added pars. (3) and redesignated par. (3) and (4) as (4) and (5), respectively.

[65] Sec. 6 of Public Law 89–572 added the words "or transfer" and struck out the following language which had followed the word "otherwise": ", and transfer such money or property to the government or other entities of the country or area with which the Volunteers are serving, when such transfer would further the general purposes of the Act." Except for the words "money or", the above language was added by sec. 5 of Public Law 88–200. Sec. 6 of Public Law 89–134 added the words "money or".

(5) [64] contract with individuals for personal services abroad, and with aliens (abroad or within the United States) for personal services within the United States: *Provided*, That no such person shall be deemed an officer or employee or otherwise in the service or employment of the United States Government for any purpose.

(b) Notwithstanding any other provision of law, whenever the President determines that it will further the purposes of this Act, the President, under such regulations as he may prescribe, may settle and pay, in an amount not exceeding $20,000,[66] any claim against the United States, for loss of or damage to real or personal property (including loss of occupancy or use thereof) belonging to, or for personal injury or death of, any person not a citizen or resident of the United States, where such claim arises abroad out of the act or omission of any Peace Corps employee or out of the act or omission of any volunteer, but only if such claim is presented in writing within one year after it accrues. Any amount paid in settlement of any claim under this subsection shall be accepted by the claimant in full satisfaction thereof and shall bar any further action or proceeding thereon.

(c) Subject to any future action of the Congress, a contract or agreement which entails commitments for the expenditure of funds available for the purposes of this Act, including commitments for the purpose of paying or providing for allowances and other benefits of volunteers authorized by sections 5 and 6 of this Act, may extend at any time for not more than thirty-six months.

(d) Whenever the President determines it to be in furtherance of the purposes of this Act, functions authorized by this Act may be performed without regard to such provisions of law (other than section 3709 of the Revised Statutes of the United States, as amended, section 302 of the Federal Property and Administrative Services Act of 1949, and the Renegotiation Act of 1951, as amended) [67] regulating the making, performance, amendment, or modification of contracts, and the expenditure of Government funds as the President may specify.

(e) The President may allocate or transfer to any agency of the United States Government any funds available for carrying out the purposes of this Act including any advance received by the United States from any country or international organization under authority of this Act, but not to exceed 20 per centum in the aggregate of such funds may be allocated or transferred to agencies other than the Peace Corps. Such funds shall be available for obligation and expenditure for the purposes of this Act in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(f) Any officer of the United States Government carrying out functions under this Act may utilize the services and facilities of, or procure commodities from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency, and funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

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[66] This figure was increased from $10,000 to $20,000 by sec. 5(a)(2) of Public Law 95-331 (92 Stat. 414). Sec. 5(b) of such Act stated that this amendment would apply to claims made after the date of enactment of Public Law 95-331 (Aug. 2, 1978).

[67] 50 U.S.C. app. 1211 note. Sec. 2 of Public Law 93-49 added within the parentheses, the reference to sec. 3709 and sec. 302.

(g) In the case of any commodity, service, or facility procured from any agency of the United States Government under this Act, reimbursement or payment shall be made to such agency from funds available under this Act. Such reimbursement or payment shall be at replacement cost, or, if required by law, at actual cost, or at any other price authorized by law and agreed to by the owning or disposing agency. The amount of any such reimbursement or payment shall be credited to current applicable appropriations, funds, or accounts from which there may be procured replacements of similar commodities, services, or facilities, except that where such appropriations, funds, or accounts are not reimbursable except by reason of this subsection, and when the owning or disposing agency determines that such replacement is not necessary, any funds received in payment therefor shall be covered into the Treasury as miscellaneous receipts.

(h) [68] The President may provide hospitalization and medical treatment to Foreign Service local employees who are within the United States for training related to their employment under this Act, for illnesses, injuries, or conditions other than those arising out of and in the course of employment, which, in the judgment of the President, began during such employee's travel related to such training or so near to the beginning of such travel that the onset of the illness, injury, or condition could not have been known, and for which immediate medical treatment or hospitalization is reasonably required.

(i) [69] The Director of the Peace Corps shall have the same authority as is available to the Secretary of State under section 26(a) of the State Department Basic Authorities Act of 1956. For purposes of this subsection, the reference in such section 26(a) to a principal officer of the Foreign Service shall be deemed to be a reference to a Peace Corps representative and the reference in such section to a member of the Foreign Service shall be deemed to be a reference to a person employed, appointed, or assigned under this Act.

(j) [69] The provisions of section 30 of the State Department Basic Authorities Act of 1956 shall apply to volunteers and persons employed, appointed, or assigned under this Act. For purposes of this subsection, references to the Secretary in subsection (b) of such section shall be deemed to be references to the Director of the Peace Corps, references to the Secretary in subsection (f) of such section shall be deemed to be references to the President, and the reference in subsection (g) of such section to a principal representative of the United States shall be deemed to be a reference to a Peace Corps representative.

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[68] Subsec. (h) was added by sec. 5(a)(3) of Public Law 95–331 (92 Stat. 414).

[69] Subsecs. (i) and (j) were added by sec. 604(a) of the International Security and Development Cooperation Act of 1981 (Public Law 97–113, 95 Stat. 1543). Sec. 604(c) of Public Law 97–113 further stated that "To the extent that the authorities provided by the amendments made by subsection (a) are authorities which are not applicable with respect to the Peace Corps immediately before the enactment of this Act and which require the expenditure of funds, those authorities may not be exercised using any funds appropriated after February 15, 1981, and before the date of enactment of this Act." (enacted Dec. 29, 1981). See text of sec. 26(a) and sec. 30 of the State Department Basic Authorities Act of 1956 mentioned in subsecs. (i) and (j).

REPORTS

Sec. 11.[70] The President shall transmit to the Congress, at least once in each fiscal year, a report on operations under this Act. Each report shall contain information describing efforts undertaken to improve coordination of activities of the Peace Corps with activities of international voluntary service organizations, such as the United Nations volunteer program, and of host country voluntary service organizations, including—

(1) a description of the purpose and scope of any development project which the Peace Corps undertook during the preceding fiscal year as a joint venture with any such international or host country voluntary service organizations; and

(2) recommendations for improving coordination of development projects between the Peace Corps and any such international or host country voluntary service organizations.[71]

The President shall also include in the report a description of any plans to carry out the policy set forth in section 2(b) of this Act.[72]

PEACE CORPS NATIONAL ADVISORY COUNCIL

Sec. 12.[73] (a) Establishment.—A Peace Corps National Advisory Council (hereinafter in this section referred to as the 'Council') shall be established in accordance with the provisions of this section.

(b) Functions.—(1) The Council shall advise and consult with the President and the Director of the Peace Corps with regard to policies and programs designed to further the purposes of this Act and shall, as the Council considers appropriate, periodically report to the Congress with regard to the Peace Corps.

(2) Members of the Council shall (subject to subsection (d)(1)) conduct on-site inspections, and make examinations, of the activities of the Peace Corps in the United States and in other countries in order to—

(A) evaluate the accomplishments of the Peace Corps;

(B) assess the potential capabilities and the future role of the Peace Corps;

(C) make recommendations to the President, the Director of the Peace Corps, and, as the Council considers appropriate, the Congress, for the purpose of guiding the future direction of the Peace Corps and of helping to ensure that the purposes and programs of the Peace Corps are carried out in ways that are economical, efficient, responsive to changing needs in developing countries and to changing relationships among people, and in accordance with law; and

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[70] 22 U.S.C. 2510.

[71] This sentence was added by sec. 6 of Public Law 95-331 (92 Stat. 415).

[72] This sentence was added by sec. 1102(b) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 272).

[73] 22 U.S.C. 2511. Sec. 12 was added by sec. 1104 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 273). Sec. 12 was previously repealed by Public Law 92-352 (86 Stat. 495). Subsec. (b) of sec. 1104 terminated the functions of any advisory body carrying out functions similar to those assigned to the Peace Corps National Advisory Council. In effect, it nullified Executive Order 12468, 49 F.R. 11139, which had established a Presidential Advisory Council on the Peace Corps.

(D) make such other evaluations, assessments, and recommendations as the Council considers appropriate.

(3) The Council may provide for public participation in its activities.

(c) MEMBERSHIP.—(1) Persons appointed as members of the Council shall be broadly representative of the general public, including educational institutions, private volunteer agencies, private industry, farm organizations, labor unions, different regions of the United States, different educational, economic, racial, and national backgrounds and age groupings, and both sexes.

(2)(A) The Council shall consist of fifteen voting members who shall be appointed by the President, by and with the advice and consent of the Senate. At least seven of such members shall be former Peace Corps volunteers, and not more than eight of such members shall be members of the same political party.

(B) The first appointments of members of the Council under this paragraph shall be made not more than sixty days after the date of the enactment of this section and, solely for purposes of determining the expiration of their terms, shall be deemed to take effect on the sixtieth day after such date of enactment.

(C) No member appointed under this paragraph may be an officer or employee of the United States Government.

(D) Of the members initially appointed under this paragraph, eight shall be appointed to 1-year terms and seven shall be appointed to 2-year terms. Thereafter, all appointed members shall be appointed to 2-year terms.

(E) A member of the Council appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(F) No member of the Council may serve for more than two consecutive 2-year terms.

(G) Members of the Council shall serve at the pleasure of the President.

(H) An appointed member of the Council may be removed by a vote of nine members for malfeasance in office, for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

(I) Within thirty days after any vacancy occurs in the office of an appointed member of the Council, the President shall nominate an individual to fill the vacancy.

(3) In addition to the voting members of the Council, the Secretary of State and the Administrator of the Agency for International Development, or their designees, and the Director and Deputy Director of the Peace Corps, shall be non-voting members, ex officio, of the Council.

(d) COMPENSATION.—(1) Except as provided in paragraph (2), a member of the Council who is not an officer or employee of the United States Government—

(A) shall be paid compensation out of funds made available for the purposes of this Act at the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a Council member, and

(B) while away from his or her home or regular place of business on necessary travel, as determined by the Director of the Peace Corps, in the actual performance of duties as a Council member, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5, United States Code

(2) A member of the Council may not be paid compensation under paragraph (1)(A) for more than twenty days in any calendar year.

(e) QUORUM.—A majority of the voting members of the Council shall constitute a quorum for the purposes of transacting any business.

(f) FINANCIAL INTERESTS OF MEMBERS.—A member of the Council shall disclose to the Council the existence of any direct or indirect financial interest of that member in any particular matter before the Council and may not vote or otherwise participate as a Council member with respect to that particular matter.

(g) CHAIR AND VICE CHAIR.—At its first meeting and at its first regular meeting in each calendar year thereafter, the Council shall elect a Chair and Vice Chair from among its appointed members who are citizens of the United States. The Chair and Vice Chair may not both be members of the same political party.

(h) MEETINGS, BYLAWS, AND REGULATIONS.—(1) The Council shall hold a regular meeting during each calendar quarter and shall meet at the call of the President, the Director of the Peace Corps, the Council's Chair, or one-fourth of its members.

(2) The Council shall prescribe such bylaws and regulations as it considers necessary to carry out its functions. Such bylaws and regulations shall include procedures for fixing the time and place of meetings, giving or waiving of notice of meetings, and keeping of minutes of meetings.

(i) REPORTS TO THE PRESIDENT AND THE DIRECTOR.—Not later than January 1, 1988, and not later than January 1 of each second year thereafter, the Council shall submit to the President and the Director of the Peace Corps a report on its views on the programs and activities of the Peace Corps. Each report shall contain a summary of the advice and recommendations provided by the Council to the President and the Director during the period covered by the report and such recommendations (including recommendations for administrative or legislative action) as the Council considers appropriate to make to the Congress. Within ninety days after receiving each such report, the President shall submit to the Congress a copy of the report, together with any comments concerning the report that the President or the Director considers appropriate.

(j) ADMINISTRATIVE ASSISTANCE.—The Director of the Peace Corps shall make available to the Council such personnel, administrative support services, and technical assistance as are necessary to carry out its functions effectively.

EXPERTS AND CONSULTANTS

Sec. 13.[74] (a) Experts and consultants or organizations thereof may, as authorized by Section 3109 of title 5, United States Code, be employed by the President [75] for the performance of functions under this Act, and individuals so employed may be compensated at rates not in excess of the per diem equivalent of the highest rate payable under section 5332 of title 5, United States Code,[76] and while away from their homes or regular places of business, they may be paid actual travel expenses and per diem in lieu of subsistence and other expense at the applicable rate prescribed in the Standardized Government Travel Regulations, as amended from time to time, while so employed: *Provided,* That contracts for such employment may be renewed annually.

(b) Service of an individual as a member of the Council authorized to be established by section 12 of this Act or as an expert or consultant under subsection (a) of this section shall not [77] be considered as employment or holding of office or position bringing such individual within the provisions of sections 3323(b) and 8344 of title 5, United States Code, section 824 of the Foreign Service Act of 1980 [78] or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, subject to section 5532 of title 5, United States Code.

DETAIL OF PERSONNEL TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Sec. 14.[79] (a) In furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail, assign, or otherwise make available any officer or employee of his agency (1) to serve with, or as a member of, the international staff of any international organization, or (2) to any office or position to which no compensation is attached with any foreign government or agency thereof: *Provided,* That such acceptance of such office or position shall in no case involve the taking of an oath of allegiance to another government.

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[74] 22 U.S.C. 2512.

[75] Sec. 6(a) of Public Law 88-200 substituted "President" for "Peace Corps".

[76] The words "per diem equivalent of the highest rate payable under section 5332 of Title 5" were substituted for "$75 per diem" by Public Law 91-352 (84 Stat. 465).

[77] The words which formerly appeared at this point were struck out by sec. 6(b) of Public Law 88-200. They read as follows: "be considered as service or employment bringing such individual within the provisions of section 281, 283, or 284 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of service, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation in respect of any particular matter, in which such individual was directly involved in the performance of such service; nor shall such service".

These words were struck out to reflect the general repeal of all special exemptions from the conflict-of-interest statutes for government employees which was effected by sec. 2 of Public Law 87-849.

[78] The reference to sec. 824 of the Foreign Service Act of 1980 was substituted in lieu of a reference to sec. 872 of the Foreign Service Act of 1946 by sec. 2202(c) of Public Law 96-465 (94 Stat. 2158).

[79] 22 U.S.C. 2513.

(b) Any such officer or employee, while so detailed or assigned, shall be considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits as such, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and he shall continue to receive compensation, allowances, and benefits from funds authorized by this Act. He may also receive, under such regulations as the President may prescribe, representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980.[80] The authorization of such allowances and other benefits, and the payment thereof out of any appropriations available therefor, shall be considered as meeting all of the requirements of section 5536 of title 5, United States Code.

(c) Details or assignments may be made under this section—

(1) without reimbursement to the United States Government, by the international organization or foreign government;

(2) upon agreement by the international organization or foreign government to reimburse the United States Government for compensation, travel expenses, and allowances, or any part thereof, payable to such officer or employee during the period of assignment or detail in accordance with subsection (b) of this section; and such reimbursement shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, or allowances, or to the appropriation, fund, or account currently available for such purpose; or

(3) upon an advance of funds, property or services to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this Act; and funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be available for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this Act, any unexpended balance of such account to be returned to the foreign government or international organization.

UTILIZATION OF FUNDS

Sec. 15.[81] (a) Funds made available for the purposes of this Act may be used for compensation, allowances and travel of employees, including members of the Foreign Service [82] whose services are utilized primarily for the purposes of this Act, for printing and binding without regard to the provisions of any other law, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of employees) without regard to such laws and regulations governing the obligation and expenditure of Government funds as may be necessary to accomplish the purposes of this Act.

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[80] The reference to sec. 905 of the Foreign Service Act of 1980 was substituted in lieu of a reference to sec. 901 of the Foreign Service Act of 1946 by sec. 2202(d) of Public Law 96-465 (94 Stat. 2158).

[81] 22 U.S.C. 2514.

[82] The words "members of the Foreign Service" were substituted in lieu of the words "Foreign Service personnel" by sec. 2202(e) of the Foreign Service Act of 1980 (Public Law 96-465, 94 Stat. 2158).

(b)[83] Funds made available for the purposes of this Act may be used to pay expenses in connection with travel abroad of employees and to the extent otherwise authorized by this Act, of volunteers, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel), and transportation of personal effects, household goods, and automobiles when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting to and from a place of storage, and the cost of storing automobiles of employees when it is in the public interest or more economical to authorize storage.

(c) Funds available under this Act may be used to pay costs of training employees employed or assigned pursuant to section 7(a)(2)[84] of this Act (through interchange or otherwise) at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firms; and the provisions of Public Law 84–918 (7 U.S.C. 1881 et seq.) may be used to carry out the foregoing authority notwithstanding that interchange of personnel may not be involved or that the training may not take place at the institutions specified in that Act. Any[85] payments or contributions in connection therewith may, as deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency: *Provided, however,* That any such payments to an employee in the nature of compensation shall be in lieu, or in reduction, of compensation received from the United States Government.

(d) Funds available for the purposes of this Act shall be available for—

(1) rent of buildings and space in buildings in the United States, and for repair, alteration, and improvement of such leased properties;

(2) expenses of attendance at meetings concerned with the purposes of this Act, including (notwithstanding the provisions of section 9 of Public Law 60–328 (31 U.S.C. 673)) expenses in connection with meetings of persons whose employment is authorized by section 13(a) of this Act;

(3) rental and hire of aircraft;

(4) purchase and hire of passenger motor vehicles: *Provided,* That, except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes abroad may be purchased for replacement only, and such

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[83] Sec. 201(16) of the Fiscal Year Transition Act (Public Law 94–274) provided that the period July 1, 1976 through Sept. 30, 1976 shall be treated as a fiscal year for the purposes of sec. 15(b).

[84] Sec. 3(a) of Public Law 80–572 substituted "7(a)(2)" for "7(c)(2)."

[85] Sec. 7 of Public Law 89–134 substituted the word "Any" for the words "Such training shall not be considered employment or holding of office under section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62), and any".

vehicles may be exchanged or sold and replaced by an equal number of such vehicles, and the cost, including exchange allowance, of each such replacement shall not exceed the applicable cost limitation described in section 636(a)(5) of the Foreign Assistance Act of 1961 [86] in the case of an automobile for any Peace Corps country representative appointed under section 7(c): [87] *Provided further,* That the provisions of section 1343 of Title 31, United States Code, shall not apply to the purchase of vehicles for the transportation, maintenance, or direct support of volunteers overseas: [86] *Provided further,* That passenger motor vehicles may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;

(5) entertainment (not to exceed $5,000 in any fiscal year) except as may otherwise be provided in any appropriation or other Act; [88]

(6) exchange of funds without regard to section 3561 of the Revised Statutes (31 U.S.C. 543) and loss by exchange;

(7) expenditures (not to exceed $20,000 [89] in any fiscal year except as may be otherwise provided in appropriation or other Act) [88] not otherwise authorized by law to meet unforeseen emergencies or contingencies arising in the Peace Corps: *Provided,* That a certificate of the amount only of each such expenditure and that such expenditure was necessary to meet an unforeseen emergency or contingency, made by the Director of the Peace Corps or his designee, shall be deemed a sufficient voucher for the amount therein specified;

(8) insurance of official motor vehicles acquired for use abroad;

(9) rent or lease abroad for not to exceed five years of offices, health facilities, buildings, grounds, and living quarters, and payments therefor in advance; maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for its use abroad; and costs of fuel, water, and utilities for such properties;

(10) expenses of preparing and transporting to their former homes, or with respect to foreign participants engaged in activities under this Act, to their former homes or places of burial, and of care and disposition of, the remains of persons or members of the families of persons who may die while such persons are away from their homes participating in activities under this Act;

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[86] The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of Public Law 100–202, 101 Stat. 1329) deleted "$2,500", and added the words beginning with "the applicable cost" and ending in "Act of 1961" and the proviso regarding section 1343 of Title 31 U.S.C.

[87] Sec. 3(b) of Public Law 89–572 substituted "7(c)" for "7(e)."

[88] Sec. 211(a) of the Fiscal Year Transition Act (Public Law 94–274) provided that for the period July 1, 1976 through Sept. 30, 1976 the limitation on expenditures in secs. 15(d)(5) and 15(d)(7) shall be $1,500.

[89] This figure was increased from $5,000 to $20,000 by sec. 601(c) of the International Security and Development Cooperation Act of 1980 (Public Law 96–533, 94 Stat. 3155).

(11) use in accordance with authorities of the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)[90] not otherwise provided for; and

(12) ice and drinking water for use abroad.

Sec. 16.[91] [Repealed by Public Law 89-572 (75 Stat. 622, 22 U.S.C. 2515).]

USE OF FOREIGN CURRENCIES

Sec. 17.[92] Whenever possible, expenditures incurred in carrying out functions under this Act shall be paid for in such currency of the country or area where the expense is incurred as may be available to the United States.

ACTIVITIES PROMOTING AMERICANS' UNDERSTANDING OF OTHER PEOPLES

Sec. 18. [93] In order to further the goal of the Peace Corps, as set forth in section 2 of this Act, relating to the promotion of a better understanding of other peoples on the part of the American people, the Director, utilizing the authorities under section 10(a)(1) and other provisions of law, shall, as appropriate, encourage, facilitate, and assist activities carried out by former volunteers in furtherance of such goal and the efforts of agencies, organizations, and other individuals to support or assist in former volunteers' carrying out such activities.

EXCLUSIVE RIGHT TO SEAL AND NAME [94]

Sec. 19.[94] (a) The President may adopt, alter and use an official seal or emblem of the Peace Corps of such design as he shall determine which shall be judicially noticed.

(b)(1) The use of the official seal or emblem and the use of the name "Peace Corps" shall be restricted exclusively to designate programs authorized under this Act.

(2) Whoever, whether an individual, partnership, corporation, or association, uses the seal for which provision is made in this section, of any sign, insignia, or symbol in colorable imitation thereof, or the words "Peace Corps" or any combination of these or other words or characters, in colorable imitation thereof, other than to designate programs authorized under this Act, shall be fined not more than $500 or imprisoned not more than six months, or both. A violation of this subsection may be enjoined at the suit of the Attorney General, United States attorneys, or other persons duly authorized to represent the United States.

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[90] This Act was repealed and replaced by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.).

[91] Sec. 5(a) of Public Law 89-572 repealed former sec. 16 which related to appointments of persons serving under prior law.

[92] 22 U.S.C. 2516.

[93] Sec. 18 was added by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (Public Law 100-202, 101 Stat. 1329). The former sec. 18 was repealed by sec. 605(b) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1543). It had stated that the Mutual Defense Assistance Control Act of 1951 would apply with respect to functions carried out under this Act except in cases where the President determined that such application would be detrimental to U.S. interests.

[94] Sec. 7 of Public Law 88-200 substituted the title "EXCLUSIVE RIGHT TO SEAL AND NAME" in lieu of the title "SEAL"; added subsection designation "(a)" and added subsec. (b).

MORATORIUM ON STUDENT LOANS

Sec. 20.[95] [Repealed by Public Law 89-572 (75 Stat. 623).]

AMENDMENT TO CIVIL SERVICE RETIREMENT ACT

Sec. 21.[96] [Repealed by Public Law 89-572 (75 Stat. 626).]

SECURITY INVESTIGATIONS

Sec. 22.[97] All persons employed or assigned to duties under this Act shall be investigated to insure that the employment or assignment is consistent with the national interest in accordance with standards and procedures established by the President. If an investigation made pursuant to this section develops any data reflecting that the person who is the subject of the investigation is of questionable loyalty or is a questionable security risk, the investigating agency shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation. The results of that full field investigation shall be furnished to the initial investigating agency, and to the agency by which the subject person is employed, for information and appropriate action. Volunteers shall be deemed employees of the United States Government for the purpose of this section.

UNIVERSAL MILITARY TRAINING AND SERVICE ACT

Sec. 23.[98] Notwithstanding the provisions of any other law or regulation, service in the Peace Corps as a volunteer shall not in any way exempt such volunteer from the performance of any obligations or duties under the provisions of the Universal Military Training and Service Act.

FOREIGN LANGUAGE PROFICIENCY

Sec. 24.[99] No person shall be assigned to duty as a volunteer under this Act in any foreign country or area unless at the time of such assignment he possesses such reasonable proficiency as his assignment requires in speaking the language of the country or area to which he is assigned.

NONPARTISAN APPOINTMENTS

Sec. 25.[100] In carrying out this Act, no political test or political qualification may be used in—

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[95] Sec. 5(a) of Public Law 89-572 repealed former sec. 20 (75 Stat. 623), which related to the moratorium on student loans. Such repeal, by virtue of sec. 5(b) of Public Law 89-572, does not affect the amendment of sec. 205 of the National Defense Education Act of 1958 (20 U.S.C. 425) contained in the former sec. 20.

[96] Sec. 5(a) of Public Law 89-572 repealed former sec. 21 (75 Stat. 623), which related to amendment to the Civil Service Retirement Act. Such repeal, by virtue of section 5(b) of Public Law 89-572 does not affect the amendment of subsec. (j) of sec. 3 of the Civil Service Retirement Act, as amended (5 U.S.C. 8333), contained in the former sec. 21.

[97] 22 U.S.C. 2519.

[98] 22 U.S.C. 2520.

[99] 22 U.S.C. 2521.

[100] 22 U.S.C. 2521a. Sec. 25 was added by sec. 1105(a)(2) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83, 99 Stat. 276). Sec. 1105(a)(1) of such Act redesignated existing secs. 25, 26, and 27 as secs. 26, 27, and 28, respectively.

(1) selecting any person for enrollment as a volunteer or for appointment to a position at, or for assignment to (or for employment for assignment to), a duty station located abroad, or

(2) promoting or taking any other action with respect to any volunteer or any person assigned to such a duty station.

DEFINITIONS

Sec. 25.[101] (a) The term "abroad" means any area outside the United States.

(b) The term of "United States" means the several States [102] and the District of Columbia.

(c) The term "function" includes any duty, obligation, right, power, authority, responsibility, privilege, discretion, activity and program.

(d) The term "health care" includes all appropriate examinations, preventive, curative, and restorative health and medical care, and supplementary services when necessary.

(e) For the purposes of this or any other Act, the period of any individual's service as a volunteer under this Act shall include—

(i) except for the purposes of section 5(f) of this Act, any period of training under section 8(a) prior to enrollment as a volunteer under this Act; and

(ii) the period between enrollment as a volunteer and the termination of service as such volunteer by the President or by death or resignation.

(f) The term "United States Government agency" includes any department, board, wholly or partly owned corporation, or instrumentality, commission, or establishment of the United States Government.

(g) The word "transportation" in sections 5(b), 5(m), and 6(2) includes transportation of not to exceed three hundred pounds per person of unaccompanied necessary personal and household effects.

CONSTRUCTION

Sec. 26.[103] If any provision of this Act or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.

EFFECTIVE DATE

Sec. 27.[104] This Act shall take effect on the date of its enactment.

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[101] 22 U.S.C. 2522.

[102] The words "and territories" which appeared at this point were struck out by sec. 4 of Public Law 89-572.

[103] 22 U.S.C. 2523.

[104] 22 U.S.C. 2501 note.

TITLE II—AMENDMENT OF INTERNAL REVENUE CODE AND SOCIAL SECURITY ACT

TAXATION OF ALLOWANCES

Sec. 201. [Repealed by Public Law 89–572 (75 Stat. 625).]

SOCIAL SECURITY COVERAGE

Sec. 202. [Repealed by Public Law 89–572 (75 Stat. 626).]

TITLE III—ENCOURAGEMENT OF VOLUNTARY SERVICE PROGRAMS [105]

Sec. 301. (a) [106] The Congress declares that it is the policy of the United States and a further purpose of this Act (1) to encourage countries and areas to establish programs under which their citizens and nationals would volunteer to serve in order to help meet the needs of less developed countries or areas for trained manpower; (2) to encourage less developed countries or areas to establish programs under which their citizens and nationals would volunteer to serve in order to meet their needs for trained manpower; and (3) to encourage the development of, and participation in, international voluntary service programs and activities.

(b)(1) [107] Activities carried out by the President in furtherance of the purposes of clauses (1) and (2) of subsection (a) shall be limited to—

(A) furnishing technical assistance, materials, tools, supplies, and training appropriate to the support of volunteer programs in such countries or areas; and

(B) conducting demonstration projects in such countries or areas.

None of the funds made available to carry out the purposes of clauses (1) and (2) of subsection (a) may be used to pay the administrative costs of any program or project, other than a demonstration project, or to assist any program or project of a paramilitary or military nature. Funds allocated for activities set forth in this paragraph should be kept to a minimum so that such allocation will not be detrimental to other Peace Corps programs and activities.

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[105] 22 U.S.C. 2501a. Title III was added by sec. 8 of Public Law 88–200 (77 Stat. 360).

[106] Sec. 3(1) of Public Law 91–99 substituted this language for former subsec. (a), which read as follows: "(a) The Congress declares that it is the policy of the United States and a further purpose of this Act to encourage countries and areas to establish programs under which their citizens and nationals would volunteer to serve in order to help meet the needs of less developed countries or areas for trained manpower, and to encourage less developed countries or areas to establish programs under which their citizens and nationals would volunteer to serve in order to meet their needs for trained manpower."

[107] Par. (1) was amended and restated by sec. 7 of Public Law 95–331 (92 Stat. 415). It formerly read as follows:

"(1) Activities carried out by the President in furtherance of the purposes of clauses (1) and (2) of subsection (a) of this section shall be limited to the furnishing of knowledge and skills relating to the selection, training, and programing of volunteer manpower. None of the funds available for use in the furtherance of such purposes may be contributed to any international organization or to any foreign government or agency thereof; nor may such funds be used to pay the costs of developing or operating volunteer programs of such organization, government, or agency, or to pay any other costs of such organization, government, or agency."

(2) [108] Not more than 2 per centum of the amount appropriated to the Peace Corps for a fiscal year may be used in such fiscal year [109, 110] to carry out the provisions of clause (3) of subsection (a) of this section. Such funds may be contributed to educational institutions, private voluntary organizations, international organizations, and foreign governments or agencies thereof, to pay a fair and proportionate share of the costs of encouraging the development of, and participation in, international voluntary programs and activities.

(c) Such activities shall not compromise the national character of the Peace Corps.

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[108] Sec. 402 of Public Law 92-352 substituted this language for former subsec. (b)(2).

[109] The 2 per centum appropriation limitation was substituted in lieu of a limitation of $350,000 in any fiscal year by sec. 8 of Public Law 95-331 (92 Stat. 416). Sec. 8 further provided that this amendment would become effective on Oct. 1, 1978.

[110] Sec. 112(b) of the Fiscal Year Transition Act (Public Law 94-274) provided that for the period July 1, 1976 through Sept. 30, 1976, the limitation on expenditures in sec. 301(b)(2) shall be $100,000.

2. Establishment of the Peace Corps as an Independent Agency

Partial text of Public Law 97-113 [International Security and Development Cooperation Act of 1981; S. 1196], 95 Stat. 1519 at 1540, approved December 29, 1981

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TITLE VI—PEACE CORPS

ESTABLISHMENT AS AN INDEPENDENT AGENCY

Sec. 601. (a) [1] * * *

(b) [2] There are transferred to the Director of the Peace Corps all functions relating to the Peace Corps which were vested in the Director of the ACTION Agency on the day before the date of the enactment of this Act.

(c)(1) [2] All personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds as are determined by the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, the Director of the Peace Corps, and the Director of the ACTION Agency, to be employed, held, used, or assumed primarily in connection with any function relating to the Peace Corps before the date of the enactment of this Act are transferred to the Peace Corps. The transfer of unexpended balances pursuant to the preceding sentence shall be subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c).

(2)(A) The transfer pursuant to this subsection of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any employee to be separated or reduced in rank, class, grade, or compensation, or otherwise suffer a loss of employment benefits for one year after—

(i) the date on which the Director of the Office of Management and Budget submits the report required by subsection (f)(1) of this section, or

(ii) the effective date of the transfer of such employee,

whichever occurs later.

(B) The personnel transferred pursuant to this subsection shall, to the maximum extent feasible, be assigned to such related functions and organizational units in the Peace Corps as such personnel were assigned to immediately before the date of the enactment of this Act.

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[1] Subsec. (a) added a new sec. 2A to the Peace Corps Act establishing the Peace Corps as an independent agency.

[2] 22 U.S.C. 2501-1 note.

(C) Collective-bargaining agreements in effect on the date of the enactment of this Act covering personnel transferred pursuant to this subsection or employed on such date of enactment by the Peace Corps shall continue to be recognized by the Peace Corps until the termination date of such agreements or until such agreements are modified in accordance with applicable procedures.

(3) Under such regulations as the President may prescribe, each person who, immediately before the date of the enactment of this Act, does not hold an appointment under section 7(a)(2) of the Peace Corps Act and who is determined under paragraph (1) of this subsection to be employed primarily in connection with any function relating to the Peace Corps shall, effective on the date of the enactment of this Act, and notwithstanding subparagraph (B) of section 7(a)(2) of the Peace Corps Act, be appointed a member of the Foreign Service under section 7(a)(2) of the Peace Corps Act, and be appointed or assigned to an appropriate class of the Foreign Service, except that—

(A) any person who, immediately before such date of enactment, holds a career or career-conditional appointment shall not, without the consent of such person, be so appointed until three years after such date of enactment, during which period any such person not consenting to be so appointed may continue to hold such career or career-conditional appointment; and

(B) each person so appointed who, immediately before such date of enactment, held a career or career-conditional appointment at grade GS–8 or lower of the General Schedule established by section 5332 of title 5, United States Code, shall be appointed a member of the Foreign Service for the duration of operations under the Peace Corps Act.

Each person appointed under this paragraph shall receive basic compensation at the rate of such person's class determined by the President to be appropriate, except that the rate of basic compensation received by such person immediately before the effective date of such person's appointment under this paragraph shall not be reduced as a result of the provisions of this paragraph.

(d)(1) [3] * * *

(2) [4] The Director of the Peace Corps shall continue to exercise all the functions under the Peace Corps Act or any other law or authority which the Director was performing on December 14, 1981.

(e)(1) [5] * * *

(2) [6] The amendment made by paragraph (1) of this subsection shall not alter or affect (A) the validity of any action taken before the date of the enactment of this Act under those provisions of law repealed by that amendment, or (B) the liability of any person for any payment described in section 3(f) of the Peace Corps Act as in effect immediately before the date of the enactment of this Act.

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[3] Subsec. (d)(1) amended sec. 4(b) of the Peace Corps Act.

[4] 22 U.S.C. 2503 note.

[5] Subsec. (e)(1) amended sec. 3 of the Peace Corps Act.

[6] 22 U.S.C. 2502 note. Paragraph (1) of subsec. (e) amended sec. 3 of the Peace Corps Act by repealing existing subsecs. (d), (e), and (f). See footnote 10, page 1107, for discussion of the subject matter of these repealed provisions.

(f)(1) Not later than the thirtieth day after the date of the enactment of this Act, or February 15, 1982, whichever occurs later, the Director of the Office of Management and Budget, after consultation with the Director of the Peace Corps and the Director of the ACTION Agency, shall submit to the appropriate committees of the Congress and to the Comptroller General a report on the steps taken to implement the provisions of this title, including descriptions of the dispositions of administrative matters, including matters relating to personnel, assets, liabilities, contracts, property, records, and unexpended balances or appropriations, authorizations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions or activities relating to the Peace Corps.

(2) Not later than the forty-fifth day after the date of the enactment of this Act, or March 1, 1982, whichever occurs later, the Comptroller General shall submit to the appropriate committees of the Congress a report stating whether, in the judgment of the Comptroller General, determinations made by the Director of the Office of Management and Budget under subsection (c)(1) of this section were equitable.

(g) [2] References in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding to the ACTION Agency or the Director of the ACTION Agency with respect to functions or activities relating to the Peace Corps shall be deemed to refer to the Peace Corps or the Director of the Peace Corps, respectively.

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RESTORATION OF CERTAIN AUTHORITIES FORMERLY CONTAINED IN THE FOREIGN SERVICE ACT

Sec. 604. (a) * * * [7]

(b) * * *

(c) [8] To the extent that the authorities provided by the amendments made by subsection (a) are authorities which are not applicable with respect to the Peace Corps immediately before the enactment of this Act and which require the expenditure of funds, those authorities may not be exercised using any funds appropriated after February 15, 1981, and before the date of enactment of this Act.

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[7] Subsec. (a) amended sec. 10 of the Peace Corps Act by adding new subsecs. (i) and (j). For text, see page 1120.

[8] 22 U.S.C. 2509 note.

3. Peace Corps Authorization for Fiscal Years 1986 and 1987

Partial text of Public Law 99-83 [S. 960], 99 Stat. 190 at 272, approved August 8, 1985

AN ACT TO authorize international development and security assistance programs and Peace Corps programs for fiscal years 1986 and 1987, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1103. LIMITATION ON LENGTH OF PEACE CORPS EMPLOYMENT

(a) * * *

(b) [1] REPORTS TO CONGRESS.—The Director of the Peace Corps shall, not later than January 1, 1986, submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the criteria to be applied by the Director in exercising the authority provided by the amendments made by subsection (a) to make appointments or assignments of individuals for periods of more than five years. Not later than each January 1 thereafter, the Director shall submit to the Committees referred to in the preceding sentence a report on—

(1) the exercise of such authority during the preceding fiscal year for each of the purposes specified in paragraph (5) of section 7(a) of the Peace Corps Act, as added by subsection (a) of this section; and

(2) the exercise during that fiscal year of the authority under paragraph (6) of such section 7(a), as added by subsection (a) of this section.

SEC. 1104. PEACE CORPS NATIONAL ADVISORY COUNCIL.

(a) * * *

(b) [2] TERMINATION OF SIMILAR ADVISORY BODY.—Any advisory body carrying out functions similar to those assigned to the Peace Corps National Advisory Council provided for in subsection (a) shall cease to exist sixty days after the date of the enactment of this Act.

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[1] 22 U.S.C. 2506 note.

[2] 22 U.S.C. 2511 note.

4. Independent Implementing Provisions of Public Law 89-134

Partial text of Public Law 89-134 [S. 2045], 79 Stat. 549, approved August 24, 1965

* * * * * * *

The new Peace Corps personnel system provided for in section 7 of the Peace Corps Act, as amended by section 4 of Public Law 89-134 and section 302 of Public Law 96-53, is to be implemented according to section 5 of Public Law 89-134 which is set forth below.

* * * * * * *

Sec. 5.[1] (a) Section 4 of this Act shall not become effective until the first day of the fourth pay period which begins after the date this Act becomes law.

(b) Under such regulations as the President may prescribe, each person employed under authorities repealed by section 4(a) of this Act immediately prior to the effective date of that section shall effective on that date be appointed a Foreign Service Reserve officer or Foreign Service staff officer or employee under the authority of section 7(a)(2) of the Peace Corps Act, as amended, and appointed or assigned to an appropriate class thereof; except that—

(1) no person who holds a career or career-conditional appointment immediately prior to the effective date of section 4(a) of this Act shall, without his consent, be so appointed until three years after such effective date; and

(2) each person so appointed who, immediately prior to the effective date of section 4(a) of this Act, held a career or career-conditional appointment at grade 8 or below of the General Schedule established by the Classification Act of 1949, as amended, shall receive an appointment for the duration of operations under the Peace Corps Act, as amended.

Each person appointed under this subsection shall receive basic compensation at the rate of his class determined by the President to be appropriate, but the rate of basic compensation received by such person immediately prior to the effective date of his appointment under this subsection shall not be reduced by the provisions of this subsection.

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[1] 22 U.S.C. 2506 note.

5. Higher Education Amendments of 1986

Partial text of Public Law 99–498 [S. 1965], 100 Stat. 1268, approved October 17, 1986

* * * * * * *

Here below are provisions of the Higher Education Amendments Act of 1986, amending the Higher Education Act of 1965, that refer to service in the Peace Corps. Sec. 405 amends the Higher Education Act, in part, by adding new secs. 464 and 465. Sec. 464 provides terms and conditions for repayment to student loan funds, as established by the Higher Education Act of 1965, as amended, for those who serve in the Peace Corps. Sec. 465 provides for the cancellation of loans for certain public service.

* * * * * * *

SEC. 464.[1] (a) TERMS AND CONDITIONS.— * * *

* * * * * *

(c) CONTENTS OF LOAN AGREEMENT.— * * *

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assistance under this part shall be required during any period in which the borrower— * * *

(iii) [2] is in service as a volunteer under the Peace Corps Act;

* * * * * * *

SEC. 465.[3] (a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) The percent specified in paragraphs (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

* * * * * * *

(E) [2] as a volunteer under the Peace Corps Act or a volunteer under the Domestic Volunteer Service Act of 1973.

* * * * * * *

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[1] 20 U.S.C. 1087dd.

[2] 22 U.S.C. 2501.

[3] 20 U.S.C. 1087ee.

6. Executive Order 12137, May 16, 1979, 44 F.R. 29023, as amended by Executive Order 12245, October 6, 1980, 45 F.R. 66769; and by Executive Order 12399, December 31, 1982, 48 F.R. 379

THE PEACE CORPS

By virtue of the authority vested in me by the Peace Corps Act, as amended (22 U.S.C. 2501–2523) and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

1–1. Peace Corps.

1–101. The Peace Corps, which was established as an agency in the Department of State pursuant to Executive Order No. 10924 of March 1, 1961 (26 FR 1789), which was continued in existence in that Department under the Peace Corps Act (the "Act") pursuant to Section 102 of Executive Order No. 11041 of August 6, 1962 (27 FR 7859), and which was transferred to and continued as a component of ACTION by Executive Order No. 11603 of June 30, 1971 (36 FR 12675), shall be an agency within ACTION pursuant to the provisions of this Order.

1–102. All references to the "Director" in Part 1–1 of this Order shall refer to the Director of the Peace Corps for whom provision is made in Section 4(a) of the Act (22 U.S.C. 2503).

1–103. Exclusive of the functions otherwise delegated by or reserved to the President by this Order, and subject to the provisions of this Order, there are hereby delegated to the Director all functions conferred upon the President by the Act and by Section 2(b) of Reorganization Plan No. 1 of 1971.

1–104. The function of determining the portion of living allowances constituting basic compensation, conferred upon the President by Section 201(a) of Public Law 87–293 (26 U.S.C. 912(3)), is hereby delegated to the Director and shall be performed in consultation with the Secretary of the Treasury.

1–105. The functions of prescribing regulations and making determinations (relating to appointment of Peace Corps employees in the Foreign Service System), conferred upon the President by Section 5 of Public Law 89–135 (79 Stat. 551), are hereby delegated to the Director.

1–106. The functions of prescribing conditions, conferred upon the President by the second sentence of Section 5(e), as amended (22 U.S.C. 2504(e)), and the third proviso of Section 6 of the Act (22 U.S.C. 2505) (relating to providing health care in Government facilities) and hereinabove delegated to the Director, shall be exercised in consultation with the head of the United States Government agency responsible for the facility.

1-107. The reports required by Section 11 of the Act, as amended (22 U.S.C. 2510), shall be prepared by the Director and submitted to the Congress through the President.

1-108. Subject to applicable provisions of law, all funds appropriated or otherwise made available to the President for carrying out the provisions of the Act shall be deemed to be allocated without any further action of the President to the Director or to such subordinate officer as the Director may designate. The Director or such officer may allocate or transfer, as appropriate, any of such funds to any United States Government agency or part thereof for obligation or expenditures thereby consistent with applicable law.

1-109. Nothing in this Order shall be deemed to impair or limit the powers or functions vested in the Secretary of State by the Act.

1-110. The negotiation, conclusion, and termination of international agreements pursuant to the Act shall be under the direction of the Secretary of State.

1-111. Any substantial change in policies in effect on the date of this Order for the utilization of the Foreign Service Act of 1946, as amended, pursuant to Section 7 of the Act (22 U.S.C. 2506), shall be coordinated with the Secretary of State.

1-112. The Director shall consult and coordinate with the Director of ACTION to assure that the functions delegated to the Director by this Order are carried out consistently with the functions conferred upon the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 *et seq.*), ("Volunteer Service Act"), Reorganization Plan No. 1 of 1971 and this Order.

1-2. The Peace Corps Advisory Council.[1] * * * [Revoked—1982]

1-3. Reservation of Functions to the President.

1-301. There are hereby excluded from the delegations made by Section 1-1 of this Order the following powers and functions of the President:

(a) All authority conferred by Sections 4(b), 4(c)(2), 4(c)(3), 10(d), and 18 of the Act (22 U.S.C. 2503(b), (C)(2), (C)(3), 2509(d), and 2517).

(b) The authority conferred by Section 4(a) of the Act (22 U.S.C. 2503(a)) to appoint the Director and the Deputy Director of the Peace Corps.

(c) The authority conferred on the President by Section 5(f)(1)(B) of the Act (22 U.S.C. 2504(f)(1)(B)).

(d) The authority conferred by Section 10(f) of the Act (22 U.S.C. 2509(f)) to direct any agency of the United States Government to provide services, facilities, and commodities to officers carrying out functions under the Act.

(e) The authority conferred by Section 19 of the Act (22 U.S.C. 2518) to adopt and alter an official seal or emblem of the Peace Corps.

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[1] Sec. 4(k) of Executive Order 12399 revoked sec. 1-2 which had established the Peace Corps Advisory Council.

1-4. Incidental Provisions.

1-401. Persons appointed, employed, or assigned under Section 7(a) of the Act (22 U.S.C. 2506(a)) shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by Section 528 of the Foreign Service Act of 1946 (22 U.S.C. 928) in cases in which their service under the appointment, employment, or assignment exceeds thirty months.

1-402. Pursuant to Section 10(d) of the Act (22 U.S.C. 2509(d)), it is hereby determined to be in furtherance of the purposes of the Act that functions authorized thereby may be performed without regard to the applicable laws specified in Sections 1 and 2 of Executive Order No. 11223 of May 12, 1965, and with or without consideration as specified in Section 3 of that Order, but subject to the limitations set forth in that Order.

1-403. As used in this Order, the words "Volunteers," "functions," "United States," and "United States Government agency" shall have the same meanings, respectively, as they have under the Act.

1-5. National Voluntary Action Program.

1-501. The National Voluntary Action Program to encourage and stimulate more widespread and effective voluntary action for solving public domestic problems, established in the Executive Branch of the Government by Section 1 of Executive Order No. 11470 of May 26, 1969, is continued in ACTION. That program shall supplement corresponding action by private and other non-Federal organizations as the National Center for Voluntary Action. As used in this Order, the term "voluntary action" means the contribution or application of nongovernmental resources of all kinds (time, money, goods, services, and skills) by private and other organizations of all types (profit and nonprofit, national and local, occupational, and altruistic) and by individual citizens.

1-6. Direction of ACTION.

1-601. In addition to the functions vested in the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C., Section 4951 *et seq.*), Reorganization Plan No. 1 of 1971, and Section 1-401 of this Order, the Director of ACTION shall:

(a) Encourage local, national and international voluntary activities directed toward the solution or mitigation of community problems.

(b) Provide for the development and operation of a clearinghouse for information on Government programs designed to foster voluntary action.

(c) Initiate proposals for the greater and more effective application of voluntary action in connection with Federal programs, and coordinate, as consistent with law, Federal activities involving such action.

(d) Make grants of seed money, as authorized by law, for stimulating the development or deployment of innovative voluntary action programs directed toward community problems.

1-602. The head of each Federal department and agency, or a designated representative, when so requested by the Director of

ACTION or the Director of the Peace Corps, shall, to the extent permitted by law and funds available, furnish information and assistance, and participate in all ways appropriate to carry out the objectives of this Order, the Domestic Volunteer Service Act of 1973 and Reorganization Plan No. 1 of 1971.

1-603. The head of each Federal department agency shall, when so requested by the Director of ACTION, designate a senior official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning voluntary action.

1-604. The head of each Federal department or agency, or a designated representative, shall keep the Director of ACTION informed of proposed budgets, plans, and programs of that department or agency affecting voluntary action programs.

1-605. Under the direction of the President and subject to the responsibilities of the Secretary of State, the Director of ACTION shall be responsible for the general direction of those ACTION functions, which jointly serve ACTION domestic volunteer components and the Peace Corps, and for advising the Director of the Peace Corps to ensure that the functions delegated under this Order to the Director of the Peace Corps are carried out.

1-7. General Provisions.

1-701. Except to the extent that they may be inconsistent with this Order, all determinations, authorizations, regulations, rulings, certifications, orders, directives, contracts, agreements and other actions made, issued or entered into with respect to any function affected by this Order and not revoked, superseded, or otherwise made inapplicable before the effective date of this Order shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1-702. Except as otherwise expressly provided herein, nothing in this Order shall be construed as subjecting any department, establishment, or other instrumentality of the Executive Branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other agency or head or as abrogating, modifying, or restricting any such function in any manner.

1-703. So much of the personnel, property, records, and unexpended balances or appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions assigned to the Director of the Peace Corps or to the Director of ACTION by this Order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Director of the Peace Corps or the Director of ACTION at such time or times as the Director of the Office of Management and Budget shall direct.

1-704. To the extent permitted by law, such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the provisions of this Order shall be carried out by such agencies as the Director of the Office of Management and Budget shall specify.

1–705. The authority conferred by Sections 1–703 and 1–704 of this Order shall supplement, not limit, the provisions of Section 1–108 of this Order.

1–706. Executive Order Nos. 11041, 11250, 11470 and 11603 are hereby superseded.

1–707. This Order shall become effective May 16, 1979.

7. Executive Order 11103, April 10, 1963, 28 F.R. 3571, 3 CFR, 1958–63 Comp., p. 762

PROVIDING FOR THE APPOINTMENT OF FORMER PEACE CORPS VOLUNTEERS TO THE CIVILIAN CAREER SERVICE

By virtue of the authority vested in me by the Civil Service Act (22 Stat. 403), and section 1753 of the Revised Statutes, and as President of the United States, it is hereby ordered as follows:

Sec. 1. Under such regulations as the Civil Service Commission may prescribe, the head of any agency in the Executive Branch may appoint in the competitive service any person who is certified by the Director of the Peace Corps as having served satisfactorily as a Volunteer or Volunteer Leader under the Peace Corps Act and who passes such examination as the Civil Service Commission may prescribe. Any person so appointed shall, upon completion of the prescribed probationary period, acquire a competitive status.

Sec. 2. The head of any agency in the Executive Branch having an established merit system in the excepted service may appoint in such service any person who is certified by the Director of the Peace Corps as having served satisfactorily as a Volunteer or Volunteer Leader under the Peace Corps Act and who passes such examination as such agency head may prescribe.

Sec. 3. Certificates of satisfactory service for the purpose of this Order shall be issued only to persons who have completed a full term of service (approximately two years) under the Peace Corps Act: *Provided,* That such certificates may be issued to persons who have completed a lesser period of satisfactory service if, in the judgment of the Director of the Peace Corps, (1) their service was of sufficient duration to demonstrate their capability to complete satisfactorily a full term, and (2) their failure to complete a full term was due to circumstances beyond their control.

Sec. 4. Any appointment under this Order shall be effected within a period of one year after completion of the appointee's service under the Peace Corps Act: *Provided,* That such period may be extended to not more than three years in the case of persons who, following such service, are engaged in military service, in the pursuit of studies at a recognized institution of higher learning, or in other activities which, in the view of the appointing authority, warrant an extension of such period.

Sec. 5. Any law, Executive Order, or regulation which would disqualify an applicant for appointment in the competitive service or in the excepted service concerned shall also disqualify an applicant for appointment under this Order.

USE OF THE INDEX

The index is organized by subject matter only. Each subject entry also includes the legal citation indicating the document to which it refers. These legal citations were not chosen on the basis of standard legal citation form, but rather for the amount of information they provided and for convenience in producing a computer-printed index. A list of abbreviations used in the legal citation section of the index appears below:

Art—Article
EO—Executive Order
fn—Footnote
FR—Federal Register
H Con Res—House Concurrent Resolution
HR—House Bill
H Res—House Resolution
PL—Public Law
S—Senate Bill
S Con Res—Senate Concurrent Resolution
S Res—Senate Resolution
Sec—Section
Stat—United States Statutes at Large
USC—United States Code

Page references, wherever possible, indicate the exact page on which mention of the entry is made. Entries of a more general nature that refer to a large section or to an entire document are listed with the page on which the reference begins.

GLOSSARY OF TERMS USED IN THE INDEX

ABM	Anti-Ballistic Missile
ACDA	Arms Control and Disarmament Agency
ADB	Asian Development Bank
AFDB	African Development Bank
AFDF	African Development Fund
AID	Agency for International Development
EEC	European Economic Community
FAO	Food and Agriculture Organization
FCC	Federal Communications Commission
GAO	General Accounting Office
IADB	Inter-American Development Bank
IAEA	International Atomic Energy Agency
ICA	International Communication Agency
IDA	International Development Association
IDCA	International Development Cooperation Agency
IFAD	Internationl Fund for Agricultural Development
IFC	International Finance Corporation
IFIs	International Financial Institutions
IMF	International Monetary Fund
MDBs	Multilateral Development Banks
MIA	Missing-in-Action
NATO	North Atlantic Treaty Organization
OAS	Organization of American States
OPIC	Overseas Private Investment Corporation
POW	Prisoners-of-War
SALT	Strategic Arms Limitation Talk
SDAF	Special Defense Acquisition Fund
SEATO	Southeast Asia Treaty Organization
U.N.	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
UNESCO	United Nations Educational, Scientific, and Cultural Organization
USIA	United States Information Agency.

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